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# Babel In Japan

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***How the Japanese language imprisons the people***

WHEN one Japanese talks to another, they both talk. For example, as one talks, the other continues to grunt at frequent intervals, "Ugh," "ha, ha," or "Ah so!" There is a reason for the grunts and the continued "ha, ha." It is a Japanese way of saying: "I got the last three words. Shoot me three more!"

Now and then the "ha, ha" does not materialize. The listener then interrupts: "I don't understand."

The speaker holds out his left hand and, using the index finger of the right, traces out the form of the Chinese character not understood by the listener. "Ah so *desu*. . . ." says the listener, registering his comprehension.

Both stories illustrate important points about the Japanese language, reputed to be one of the most difficult in the world. The first is that understanding between Japanese is not always easy. Understanding is therefore habitually acknowledged by the "ha, ha." When there is a break, it usually means that a *homophone* has been used; i. e., a word-sound that has many varied meanings. The talker must then stop in order to write out the Chinese character. Seeing usually brings understanding.

But even here there may be difficulty. The listener may not know the character. In that case, the conversation is interrupted so that a definition can be made using words understood by the listener.

It sounds complicated. But that is only the beginning. The first two examples presuppose two Japanese of equal rank. The bonds of Japanese military feudalism were only shattered in 1868 when the Emperor Meiji was restored as the ruler in Japan and the country turned to an intensive period of westernization. But the bonds of Japanese mental feudalism remained, and possibly nothing brings this out better than a study of the Japanese language.

You ask a Japanese friend: *"Isogashii desu ka,"* which is to say, "Are you busy?" The *desu* is the verb "to be." He may answer, "yes," but there is a change, for you hear: *"So de gozaimasu."*

You wonder what happened to the *desu*. You find out that the *desu* is "to be" only between equals or intimate friends. When an inferior person speaks to a superior person, then the polite *de gozaimasu* is used.

Possibly the expressions for "thank you" offer one of the finest illustrations of what the Japanese language involves in terms of feudal relations. Thus, when one worker thanks another for a light, he merely grunts "Ugh!" A superior will also grunt "Ugh"



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to an inferior immediately below him. But when some inferior not intimately known is thanked, the "thank you" becomes a curt *Domo!* If the "thank you" is to be cordial, the same person may say *arigato!* When a "thank you" is expressed between persons of differing ranks, it then becomes a combination, i. e., *domo arigato!* When an inferior says "thank you" to someone who is really superior, it then becomes *domo arigato gozaimasu.* The very high classes, when thanked by a commoner, expect to hear the honorific *Domo arigato gozaimasu shita!* Finally, there is the most elegant "thank you" of all, reserved for the Emperor of Japan: *domo arigato gozarimashita!*

If there is any mistake made in the use of honorifics, it may drive the Japanese either crazy or to deep anger. Once I said to an elevator boy: *Domo arigato gozarimashita.* He protested violently that I had insulted him by using language reserved for Emperor Hirohito!

So far, we have merely discussed language difficulties in speaking and in terms of honorifics. There are also language difficulties in terms of sex.

Thus, the male has one set of words, the female another set, the soldier another set, students a fourth, and so forth. For example, when a man refers to himself, he says: *Watakushi* for I. A woman says *Watashi.* The soldier will say *Jibun.* Confused and disturbed has been the American soldier in Japan who learned his Japanese from his Japanese lady friend! Whenever he talked in Japanese to a Japanese male, it would release hysterical laughter: "Ah so! You speak woman's Japanese!"

This difficulty, obviously, introduces certain dangers, for who would want to say to another man something in Japanese that would have the same effect as: "Oh my goodness gracious me. Isn't that just too, too fetching!" I've heard the most dignified Colonels in Tokyo use Japanese words that had the same effect on the Japanese.

The transmission of the written word introduces further difficulties. The Japanese newspaper uses Chinese characters but parallels them with tiny explanations in another type of Japanese writing called *Hiragana.* The typical Japanese worker and peasant knows so few Chinese characters that he must be given an explanation of the more difficult ones in simple Japanese in order to read the newspaper.

This explains why in every Japanese home you will find at least one dictionary in prominence. And when Japanese go travelling, they take along a lunch box and a dictionary. For the typical Japanese—worker or peasant—cannot read a two-page Japanese newspaper without having to use the dictionary from time to time.

This lack of understanding of their own language is one of the most remarkable things about the Japanese. It has also proved to be one of the most dangerous, for when the Occupation first began its drive to democratize Japan, it had to work through the Japanese. If the interpreter did not know what the American was talking about, but had his own "idea" of what was being said, the Japanese audience got the interpreter's "idea." It is said that of all the American speeches made in Japan through interpreters, the Japanese are lucky if they have grasped 25 per cent of the actual thought content in the original.

Sometimes the lack of understanding has political implications. For example, late in 1947 Mac Arthur's Labor Division began a drive to sell the concept of grievance machinery to the trade-unions of Japan. The trade-unions, largely under red leadership, had been following what they called a "dispute policy," i. e., strike whenever any difference arose with management.

## LABOR

There was no word for "grievance machinery" in the Japanese language, so Allied interpreters coined a Japanese word which approximated the thought. The meaning in Japanese was "disputes settlement machinery." To Americans, that meant settlement of disputes within the framework of a labor agreement. But when the Japanese workers heard American speakers talking about "disputes settlement machinery," they saw the right to strike going out the window. Naturally, the Japanese workers protested vigorously, and resisted the "oppression" of Mac Arthur's Headquarters. Finally the Communist daily newspaper, *Red Flag,* started a

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campaign telling the Japanese workers that grievance machinery was actually subverting the rights of the Japanese labor movement "in order to allow the entrance of foreign capital and permit Wall Street to colonize Japan."

All this from the simple words "grievance machinery."

The same difficulty exists in the use of the language itself. The peasants at best know only a few thousand Chinese characters (*Kanji*). In the early days of the Occupation, the writer prepared a pamphlet about democracy, and had it translated into Japanese. It was widely disseminated. But when I travelled about the country and questioned workers on their opinion of the pamphlet, they replied quite frankly: "I am sorry. We cannot read the pamphlet. It is university Japanese!"

My mistake had been in giving the pamphlet to a university-trained Japanese scholor for translation. He had written the pamphlet in the most elegant Japanese, pouring his years of study and deep learning into that one job. It was a perfect job. But it was so perfect that no worker could possibly understand it!

When Japanese visited my office, they seemed amazed to see us pounding away at the typewriters, pulling out closely-written sheet every few minutes. When I visited a Japanese office, I discovered the reason. Their typewriters are cumbersome affairs, with hundreds of Japanese characters, *Hiragana,* and *Katakana* phonetic slugs. The various units of the language are picked up, one by one, pounded against the paper, and returned to their places. A good Japanese typist, working under the best conditions, can turn out about one page of copy every thirty minutes.

Imagine what would happen to our world of red tape and business bureaucracy if our typists were so limited by language difficulties! And the same holds for the Japanese linotyper and compositor. How the Japanese are able to set up and print daily newspapers is certainly one of the miracles of the Japanese world. And incidentally, when striking workers turn over the type cases, the boss is really in trouble, for it may take days to put the thousands of characters back in their proper places.

The Japanese language is especially hard because it exhibits striking difficulties in (1) oral transmission; (2) status in the sense of feudal relations; (3) comprehension because of limited knowledge of Chinese characters; (4) sex status; (5) educational status. Because Japanese involves the use of thousands of Chinese characters, along with the other ways of writing, transmission of thought in Japan by way of books and printed materials is inhibited greatly. Further, translation of simple terms from foreign languages into Japanese involves problems which are sometimes insoluble because the thought content of the foreign term just does not exist within the Japanese lingusitic frame of reference.

## BASIC PROBLEMS

Thus, in baseball, the Japanese have Japanese words such as "baseball," "strike," "home-run," and "foul ball" to outline the rules of the game. And not infrequently a Japanese will view a beautiful mountain and exclaim in pure Japanese, "Ah, so shoen!"

Now all of this is not an accident. The troubles of the Japanese with their own language is strictly their own fault, and for various reasons which the Japanese will generally not admit: pride, religion, and politics.

The best way to explain the root difficulty of the Japanese written language is to relate my own experience. I found myself one summer night sitting in the home of a Buddhist priest atop Kyoto's historic Mount Hie. As there was an electric shortage, we were sitting on the floor around a candle. I asked one of my Japanese companions during the early part of the evening: "My spoken Japanese is coming along. Do you think I can ever learn how to write Japanese?"

"Ah so," he replied. "That is not at all difficult. I will teach you."

And thus we spent the remainder of the evening studying a series of phonetic symbols which he called *Katakana.* By morning, I had mastered Japanese . . . . or so I thought!

A few days later, back in Tokyo, I proudly announced that I could write Japanese, and exhibited my skill. "Ah so," said a Japanese friend. "Now you can read Japa-

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nese signs that say 'Beer'. . . . and you can also read the children's funny books!" It then developed that *Katakana* is used for telegrams, funny books, and for foreign names and words used in Japan. This disturbed me, of course, but the Japanese said: "Don't be discouraged. If you learn *Hiragana,* then you will be on the road to learning the Japanese language."

Encouraged, I spent the next six months learning *Hiragana,* memorizing the 48 phonetic symbols, spending hours at night tracing the curleykew symbols on paper, practicing by reading funny books when travelling. As I had studied Gregg previously, the shorthand experience aided in developing the *Hiragana* script, which is very beautiful and at a distance looks like shorthand.

But during this period I discovered that the *Hiragana* is only used in funny books for older children . . . . and for the inflections of Chinese root characters. Having mastered *Katakana* and *Hiragana,* my Japanese friends told me that I must now begin to study the Chinese characters. They added that there were some 50,000 Chinese characters.

An old missionary friend in Tokyo told me: "Deverall, don't study Chinese characters. Of course, you only have to learn about two thousand of them. But as you study the Chinese characters, you'll find that your knowledge of spoken Japanese will diminish."

Tapping his head, the old missionary added: "And you know, it will do something to your mind!"

Finally I had comprehended the whole naked truth. The written language of the Japanese people involves three separate and distinct types of writing: (1) *Katakana* used for foreign names and foreign expressions; (2) *Hiragana* used for inflections and to explain difficult Chinese characters; (3) Chinese characters used for adjectives, nouns, verbs.

Even then, that was not all, for I discovered that the Chinese character had a minimum of two pronunciations and meanings—one Chinese, the other Japanese. Thus the character that I originally learned as *moto* or "base" also meant *hon* or "book." The Chinese character that I first learned as "up" also meant "up," "above," "upper," "to mount," and "to give!" Then I knew why, when Japanese read a newspaper, they frequently argue among themselves as to what certain characters mean. They don't even agree among themselves!

Now this frightful linguistic mess began a long time ago, when the first Buddhist monks arived in Kyushu from China sometime during the sixth century, A.D. Before their arrival, the Japanese apparently had no written language of their own. The Buddhists brought with them, among other things, a written language, Chinese. In a short time, the Chinese language became very popular, especially among the scholars. Thus Chinese became the first written language of the Japanese and was used to express in writing the spoken language of the Japanese.

A few hundred years later, around the ninth century A.D., *Hiragana* was developed and represented a system of simple phonetic symbols based on Chinese characters, some apparently selected at random. This marked the first development within Japan of an indigenous written language. Later, apparently, the *Hiragana* was modified and the extremely easy-to-read *Katakana* was developed. Although the scholars and the priests continued to use the Chinese characters, and official records were kept in Chinese, *Hiragana* was found necessary in order to provide the inflections for the Chinese. During this same period, an indigenous literature began to develop in Japan. It was a literature written in *Hiragana,* not by the scholars and the priests, but by the women of Japan. The ladies of the court at Kyoto took up the writing of diaries and other literary works, and through their use of *Hiragana,* had actually developed a way of writing good Japanese.

With the prestige of Chinese in Japan, and with its entrenchment in the Buddhist and Shinto monasteries, Chinese writing persisted despite the new written Japanese language. The role of the woman had become subordinated by the feudal relations of medieval Japan. Consequently, what the women did, had relatively no influence on the predominantly male society. Few real

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literary works were written by the men of medieval Japan. But among the women writers, one Lady Murasaki wrote a book in *Hiragana* which is not only a classic in Japan but is a Japanese contribution to the literary classics of the world: *The Tale of Genji.*

As the cultural impact of the western world was felt within Japan, following the first European contacts of the sixteenth century, new Chinese characters were added to the language to express the new thought. And, as new scientific and technical terms entered Japan, new characters were invented by putting together old Chinese characters, or making up entirely new characters. This naturally served further to bastardize the Japanese language.

One example of this is found in the word for "labor" which in Japanese is *rodo.* The *ro* of *rodo* comes from a combination of Chinese characters expressing "great fire" and "movement." The *do* of *rodo* comes from other characters denoting "the movement of human beings." The final character is a complicated series of scrawls which to a Japanese means: "The movement of many human beings acting with great fire." That is what "labor" means in Japanese. Picturesque as are some of the new characters, the continuation of this system of writing has meant that for centuries the students of Japan have had to beat out their brains trying to memorize not only the standard old characters, but the new ones. It is almost impossible for a student to take up new work in science or some specialized field without prior intensive study of the vocabulary to be used in the field.

Although literacy in Japan is very high in terms of the ability to read and write, literacy in terms of comprehension and the ability to think is strikingly low. Ever since public schools were organized in Japan, the Japanese have spent six years in primary school acquiring a smattering of knowledge about geography, history, morality, and basic arithmetic. But after calisthenics, sports, and trips to local shrines, the Japanese children devote the largest share of their school-time to the memorization of the Chinese characters, not to mention mastery of the other written languages: *Katakana* and *Hiragana.*

Thus the child must spend perhaps a year learning the precise form and order in writing *Katakana.* He may spend two more years learning to read and write a reasonably good *Hiragana.* And then the bulk of his time in primary school will be devoted to the memorization of Chinese characters with the goal of knowing two thousand of them. Very few of the men and women of Japan are ever able to achieve what we call a "liberal education." Most primary school graduates pass directly into industry, government work, or farming. A small group of primary school graduates—possibly 15 per cent—enter and complete the studies of the middle school, which roughly corresponds to our high school. Of the small group who leave middle school, possibly only 25 per cent pass into and complete university work. Now in middle school the study of the language is continued, with more memorization of characters. In the university, the student studies even more Chinese characters—the ones relating to his chosen field of study.

## KNOWLEDGE

With the bulk of Japan's population consisting of primary school graduates, possessing at best a very elementary knowledge of their own language—which slips rapidly unless they continue to read and write extensively—the "primary school boys" who form the bulk of the workers and farmers of Japan are placed at the bottom of the valley of ignorance. They cannot emerge except through heroic labors. The boys and girls who go on to middle school are, on graduation, regarded as "intelligent" citizens; the few who graduate from the universities are the real "intellectual elite" of Japan. It is these university men who are the backbone of Japan's government bureaucracy, large business enterprise, and the educational system, all of which constitute a major portion of the controlling element within Japan.

Americans in Japan are often amazed to find that even in the labor movement, the typical labor leader is an intellectual, a

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product of a Japanese university. Mr. Kikunami, the original leader of the left wing post-war labor movement, and a Communist, is a polished scholar. Mr. Dobashi, leader of the militant and increasingly anti-American government workers' unions, is also a university man and a Communist. Union headquarters in Japan are usually staffed almost exclusively with university men, and a few rank-and-file workers who are "primary school boys." The rank-and-file worker in Japan knows that he cannot strive for a position of leadership. With but few exceptions, he points his finger to his nose, says: "I am stupid. I am a primary school boy."

The Japanese language is such that only the better-educated are able to achieve any ability to read anything other than the daily newspaper, comic books, and wall posters. As the study of the Japanese language involves much dull memorization, and memorization over such a long period of time, the native intelligence of the Japanese frequently becomes dulled and beaten down. In western countries, the children learn the 26 letters of the alphabet quickly and from that time forward, as they increase their vocabularies *incidentally,* there is time for other studies which awaken curiosity and develop a broader understanding. But in Japan, children continue year after year memorizing Chinese characters, learning to write the complicated 20-stroke or 25-stroke Chinese characters in precisely the "correct" fashion, consequently emerging in later life with limited perspective and undeveloped, if not dulled, intellectual curiosity. It is no wonder that many foreigners say, "The only intelligent people in Japan are the children."

## RELIGION

There is no doubt in my mind that the Buddhist and Shinto priests of Japan—who constitute both a religious as well as a political element—want the old and confused system of Chinese-Japanese writing continued. A good part of the mystery and magic of both Buddhism and Shintoism is found in the fact that practically no Japanese knows what the priests are talking or singing about. And the old Japanese nationalist and secret society crowd want the old Chinese retained, as do the bureaucrats and the intellectual elite, who find in the present Japanese language their best protection from any possible independent thinking on the part of the broad masses. Neither the post-war Communist or Socialist parties have ever raised the issue of language reform. The backbone of the left wing parties, it goes without saying, is found in a core of intellectuals and university men who rather enjoy having the rank-and-file workers look up to them as *sensei* (teacher), a very convenient and safe position for the leadership.

Language reform in Japan would be tantamount to a social and intellectual revolution, and might in turn lead to the long-awaited renaissance of Japan. It would be the same for Japan as the discarding of Latin by the nascent nations of the post-medieval Western world. Latin, of course, although a dead language, remains with us because it offers sharp definitions and clear meanings. Chinese, which is both vague and loose in its thought content and definition, would possibly disappear rapidly from Japan once some form of language reform were enforced and popularized.

The Japanese Army, which in some ways was a revolutionary element within pre-war Japan, worked for modified language reform and made extensive use of *Hiragana* and *Katakana,* for the pragmatic militarists were aware of the real illiteracy of Japan. The Japanese Navy found the Japanese language too difficult, and used English as its command language from the captain on the bridge down to the engine room. Even today, when you hear a Japanese ship's master giving orders, you hear "Hard-a-port . . . . Full speed ahead. . . ." However, you'll need sharp ears to get it, for with the Japanese inability to pronounce the "l" or "r," English becomes a bit mauled in the process.

Liberals within Japan have fought for years for language reform. Some wanted to throw out the Chinese characters, and base Japanese on only the native *Hiragana* and *Katakana;* others wanted to use only the *Katakana.* Smaller groups want to use only *Romaji* (the western alphabet). And there remains within Japan that hopeful if

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small group who find in *Esperanto* the only hope of language reform. The old guard and the nationalists in Japan say that only the Chinese characters have "real meaning." They say that the Japanese could not possibly understand each other if they abandoned Chinese characters. But the growth of the radio since 1925 has proved conclusively that the Japanese can understand each other, *without Chinese characters,* if they really want to. In fact, the only time in recent years when the Japanese could not understand the radio was when Emperor Hirohito broadcast his now-famous "surrender message" in 1945. Few Japanese could understand the Japanese used by the Son of Heaven, and later broadcasts were necessary to "translate" the Japanese of the Emperor into rank-and-file Japanese!

Shortly after the occupation of Japan began on September 2, 1945, General Mac Arthur appealed to Washington for an advisory committee on problems of education. He repeated the request again in 1946. An Education Mission went to Japan, with Dr. George D. Stoddard as chairman. Stoddard was then the Commissioner of Education for New York State. The Commission spent a month in Japan, and wrote one of the most brilliant reports of any group that visited Occupied Japan. The six points recommended by the Commission included: "the introduction of *Romaji* in some form." Five of the six points recommended have been, generally speaking, well implemented by the Allied Occupation. The language reform issue—possibly one of the most basic of all six—remains an "issue." Vested interests and the strong forces of reaction inside Japan have not budged. And, unfortunately, there has not been too much pushing from Allied Headquarters.

During the past year, a pilot school class was begun in Japan, with one group of students in primary school receiving their entire instruction in *Romaji,* the other group half in *Romaji* and half in the traditional Chinese - *Hiragana* - *Katakana.* The experiment should prove extremely valuable, for although the talk about *Romaji* has raged for decades, this is the first formal experiment by the Japanese government in bringing about possible change.

Today, with the occupation of Japan well on the way toward the close of its fourth year, reports come that Japanese nationalism is reviving. More disquieting reports state that Buddhism and Shintoism are as strong as in pre-war days. And there is little indication that the old feudal thought patterns have changed much as a result of the Allied Occupation. Although the English language was a fad of the first three years of the Occupation, the return to traditional nationalistic trends will probably see a decline. The historically-minded American should never forget that in the 1880's Japan underwent a strong English-language period, which passed in time. Again, in the 1920's, the cities of Japan underwent strong Westernization. It died very quickly and was replaced by the virulent anti-Occident program of Tojo and his gang.

## REFORM

If we do nothing else in Japan except bring about a radical reform of the Japanese language, we will have shaken Japan's mental feudalism to its roots. And in bringing about some measure of language reform —either use of *Romaji* or *Katakana*—the Allied Occupation can ensure that the Japanese peasant and worker will face a future in which they can acquire knowledge from the outside world. For it is true in Japan, as it is in other countries, "Give the people light and they will find their own way."

Allied occupation policy in Japan should force the Japanese to stop dawdling on language reform. If the women of Japan, the right wing trade-unions, and the other democratic forces are enlisted in the struggle for language reform and the intellectual liberation of the Japanese people, it may be possible to overthrow the dead-weight reaction of the bureaucrats, the intellectual feudalists, and the Buddhist-Shinto priest groups. Above all, there is no reason why the Allied Occupation itself cannot make a start in the right direction by issuing its directives to the Japanese government in *Romaji.* And there is nothing to prevent the Allied Occupation from preparing its posters and other materials for the Japanese people in *Romaji* or *Katakana.*

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*More Than*

# *FIFTY YEARS* OF *FORUM*

Mr. Flechtheim tells us in this issue that foretelling the future is as old as man and that it may now develop into a distinct science. FORUM itself was speculating on the future of the world 16 years ago. In the fourth of a series entitled "The World Fifty Years from Now," Julian Huxley gave his predictions. Unlike the lady astronomer of Mr. Francis' acquaintance, however, Mr. Huxley proceeds with great caution:

"When I say that something will happen, I mean that it *may* happen, and that on the whole I think that state of affairs more likely to happen than another: any social prophet who does more than that is either deluding himself or others."

With that qualification, Mr. Huxley proceeds to his prophecies, some of which have already been partially fulfilled. In politics he predicts:

". . . .the struggle between nationalism and internationalism will have reached a new phase. Economic necessity will have forced a number of smaller nations to join up into federations. We may anticipate about six of such super-nations — the U. S. A., the U. S. S. R., the British Commonwealth of Nations, the U. S. E. (United States of Europe), the C. S. A. U. (Central and South American Union), China, including Japan (or else Japan, including China), each with a few colonies tacked on . . . .Politically they will still claim to be sovereign states . . . . but in point of fact they will have been compelled by the march of events to surrender some of their nominal nationalism to a *de facto* internationalism."

Predicting the sharpening of the issue of private enterprise versus communism, he continues:

"In all probability we shall see a form of industrial Guild Socialism, with each main group of industries organized as a vast unit. Within each unit, inefficiency will have been reduced to a minimum, and wasteful competition will be almost eliminated, through the Council of the group having powers to order the compulsory winding up of superfluous concerns, and through the compulsory utilization, by those that are left, of central purchasing and marketing boards. The several groups . . . . must adjust their output quota to the rulings of a Central Planning Commission. . . ."

"As for politics, so for religion, the age will be one of sharpened issues. . . . . On the one side will stand godless religion—Humanism, if we must have a label—of various brands and on various levels of intelligence; on the other will be a remnant of Protestantism, fundamentalist in type and distinctly shrunken in size, together with Roman Catholicism, hardly diminished in number, but at last definitely on the defensive. . . . . Birth control, crusaded for in the first quarter of this century, will in the next quarter have spread so far that the populations of all industrialized nations will be dropping. . . . . It will be compulsory for everybody to take out health insurance: and this will provide for quite good quality medical advice and hospital accommodation. . . . . Advertising will still exist: but it will be under the strict control of a state licensing bureau."



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*A sociological view of personality formation*

# MAN IN THE MOLD (I)

By PAUL H. LANDIS
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BEFORE the days of research in the field of genetic psychology, personality was considered largely a product of heredity. As psychologists traced the development of the infant's behavior from birth to maturity, they had to cast aside accepted instinct theories and construct in their place a theory of personality growth. Instead of instincts being numerous at birth and ready to function, they found only simple reflexes and drives. Instead of other instincts developing automatically as the nervous structure developed through the biological process of maturation, they found evidences of learning.

The quest for the laws of personality formation had to be shifted from inside to outside, from forces within the organism to environmental forces that shaped the organism. Today, therefore, instead of the psychologist and the physiologist, who studies the ductless or the endocrine glands, telling us most of what there is to know about personality, the sociologist has a great deal to add. He shows how the group takes whatever heredity has provided and from it forms the socialized personality structure of the person.

The sociologist has from the beginning dealt primarily with case-history materials in arriving at his conception of the social self and of personality generally. Even now he makes no claim for having arrived at an adequate scientific concept of personality, but he has developed some useful tentative theory growing out of his observations of man as he functions in the group.

The discovery of the physical self is made by the child through tactile sensation as he explores himself and his material environment. He soon learns that when he touches another part of his body he receives two tactile sensations, whereas when he touches the crib or other persons or objects he receives only one sensation. The development of the *psychological self* is a much more complex process. It involves the development of the consciousness that "I," "myself," and "me" is a unique behavior unit capable of feelings and sensations that are uniquely one's own. The psychological self is really that part of us which is reflective. "I have to be myself," is a common expression of it. It comes to see itself as an object of value.

The *social self* which consists essentially in a consciousness of having a status in groups is the most complex self conception which the individual develops. It comes from seeing one's self as a unit which reacts to others and to which others react. Charles H. Cooley, Professor of Sociology at the University of Michigan prior to his death, concluded after studying the development of personality in children, that the social self and society are twin born. They originate together in social groups. In describing this building of the social self in primary groups, he said that one's knowledge of himself as a social creature comes from the reactions of others to him in the social groups in which he participates. In various social groups, as in a mirror, one sees his picture reflected differently and thus eventually builds a complex social picture of himself. Eventually one sees himself from so many angles that it is as though he were standing before a triple mirror, seeing all sides at once. Professor Cooley appropriately called this society-built self the "looking-glass self."

The *conscience* is a part of the developed social self—the self-critical or self-condem-



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ning part. From one's social groups, particularly his family, he acquires standards of good and bad behavior. When he violates the standards he has been taught, he is punished by his parents, and as he gets older, criticized and condemned by others. He comes to accept group evaluations of his behavior and, as the social self develops, to condemn himself for violating standards. Thus he feels guilt, even though the groups may not even discover that he has violated the standards.

His conscience, of course, has meaning only in the society of which he has become a vital part as a socialized person. He, like the Apostle Paul, might haul Christians to prison and otherwise persecute them in "all good conscience," if his group considered that kind of behavior good.

More recent than the Cooley theories of the social self and its development by the group is the Freudian concept employed by the psychiatrist. The social or status-seeking self they call the *ego;* the guilty or self-critical self, the conscience. The psychiatrist believes that the personality of the individual is integrated and unified largely in proportion to the strength of the ego. A strong ego is manifest in self-confidence, a feeling of security, and hopefulness that aspirations can be realized.

## THE FAMILY

The psychiatrist believes that one of the most important elements in building a strong ego is parental affection, which gives a sense of security, of being wanted, of having a refuge to which one can turn at all times. It is built by performing in situations where success is assured, initiative rewarded, and a sense of power and strength permitted. In a sympathetic family group this kind of situation is provided by the understanding parent. The child is much more helpless than the adults in the family, but the adults try to give him a chance to show that he can do superior things. They make him feel that his first step is a tremendous achievement, his first word, his first success in accomplishing any new task. In this atmosphere of appreciation and love, the child develops confidence, self-assurance, courage, and the other traits that make one able to face life boldly.

Generally speaking, members of the family group try to shield the weakest member rather than criticize him because he cannot do as well as the stronger ones. They praise him for the things he does accomplish and give him an advantage in competitive situations, as when older brothers or sisters give little Johnny a head start in a foot race and usually manage to let him win. Parents protect the youngest or the weakest child from exploitation by the older brothers and sisters, take his part, and try to protect him from too frequent defeat. The play group often gives the younger member special opportunities to achieve success, and there is usually a sympathetic member who will try to smooth over defeat and help the younger child understand it.

It is just as possible, however, for a family group to build a social self which is completely inadequate for facing the realities of life. Parents can begin by *rejecting* the child emotionally, making him feel that he is unwanted. They can criticize, depreciate, humiliate him by comparison with others who are able to do better, until they destroy his sense of security. They can make him fearful, self-depreciative, void of initiative, anxious concerning life in all its aspects. In fact, they can lay the foundation for a neurotic personality, a personality which has such a weak ego structure that the individual cannot face life's responsibilities.

The *underprotected* child who is so much criticized by parents and older brothers and sisters that he fails to develop self-confidence through normal achievements may suffer complete defeat. The social self, or ego, reflecting this primary group attitude becomes self-critical and derogatory. The child feels a sense of guilt and self-condemnation that relates to no specific violation of conscience on his part; he is sensitive and afraid to try new things for fear his efforts will bring further rebuff. He becomes anxious and fearful of life. Failing to find ego support in primary groups, it is unlikely that he will find it outside, because secondary groups, as we know, are essentially competitive and impersonal. A child with this kind of background is likely to become a neurotic adult who fails in meeting the crises, or even the normal adjustments that life in a complex society requires of all.

Take the case of a boy whose parents from his early childhood continuously compared him unfavorably with an older sister; criticized,

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dominated, and browbeat him; found fault with him and his companions; made him feel guilty and sinful; restricted and hampered all his activities. At twelve years of age he was so fearful of life he could scarcely be made to go upstairs alone at night. He wanted the register open in the ceiling of the living room so that light could shine up in his bedroom and he could hear his parents talking below. He was a failure in school also, even though he had a good mind. He felt ill at ease with his playmates and had a generally anxious and fearful attitude. He responded remarkably well to any show of kindness or friendliness and would become devoted to anyone who gave him affection.

Here we have the picture of the building of a social self which had no foundation of security, a near neurotic personality built entirely by the wrong handling of a well intentioned but unwise family.

## MARRIAGE

Continued sociological study is revealing the long-time effects of insecurity on personality and lifelong adjustments. For example, studies of marriage show that the child who comes from an unhappy home where a sense of security has been denied him most often fails in marriage. In contrast, those who come from happy homes where a strong sense of security has been built usually make successful marriages. Part of this difference probably is explained by the fact that the child who has developed a sense of insecurity tends to use love and affection as a device for restoring everything he has lost. He uses the affectional ties developed to protect him against all sense of insecurity and to cover all his anxieties. His courtship may be extremely demanding; his marriage may also be much more demanding of affection and attention than it is possible for any individual to give another. On the negative side, such an individual usually employs aggressive tactics as defense reactions and may often manifest a great deal of hostility and suspicion.

Although we have stressed the importance of affection and being wanted by his family group as an essential factor in the integrated personality, and the tragic affect of family rejection in creating the disintegrated personality, we must caution that *over-protection* of the growing ego is possible. Parents, grandparents, or brothers and sisters may shield the child too completely from competition. Too much shielding leaves him unprepared for the bumps that will naturally be given him when he shifts to competitive secondary groups outside of the family. He, therefore, is in danger of facing a crisis when he comes up against difficult adjustments. He has never had an opportunity to develop the toughness that life requires. His self-assurance proves to be illusory.

The proper balance of success and failure, of warm affectionate responses in the primary group world and correction by it, is not precisely known. It most certainly differs with the hereditary temperament qualities of the person, particularly as they affect sensitivity, and with the patterns of the culture, which provide the individual and the group with their standards of competency.

The personality of the socialized individual, in its patterning of behavior, is a developed series of group-accepted routine habits and a more elaborate framework of group-conforming roles. These roles are defined by the particular group and the individual's behavior is in turn designed to measure up to group expectations.

To illustrate this theoretical concept, the following example from the autobiography of a college sociology student is presented.

> This social group that I associated with throughout my school days in the community had its own standards by which to judge its members. In order for a member of the group to be held in highest esteem, he must: (1) Be free from parent control, that is, be able to go when and where he pleased and do as he liked. (2) He must be a poor, or at the most, an average student. If he excelled in school work he was ousted and ridiculed by the group. (3) He had to take some part or be associated with one of the various athletic sports of the school. (4) He must not associate with girls as anyone who liked the company of girls or had a girl friend was ridiculed by the group. (5) He had to take part in all of the group's functions whether they were mischievous or not. (6) He had to be able to use tobacco and to have at one time or another, caused one of the faculty members trouble and to have been kicked out of class at least once.

A *social role* may be defined as a pattern of behavior identified with status in a group. In the gang above, each of the seven patterns of behavior outlined were clearly identified

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with attaining or maintaining a desirable status or rank in the group. In each of the groups in which a person has grown up, he has played different parts—the family, the play group, the school group—and his action in any particular group has been determined by the standards, practices, and expectations of that group. He has shifted intermittently from role to role as the group situation demanded. In each of these groups in which he was a frequent participant, he came to assume certain roles that the group expected of him and which he, by habit, came to expect of himself.

He came to estimate himself largely in terms of these various roles; in fact he was, as a person, largely a bundle of habits and attitudes which were related to the particular roles he had an opportunity to play in various social groups. If he had an intimate and respected place in the family group, this was one of his most vital roles. It may have been that of big brother, little sister, mama's little man. If in a play group he had the place of a hero or was looked up to as one who was superior in athletic prowess, the "athlete role" came to have a great meaning to him in giving him standing not only in the group, but in his own eyes.

We tend to develop estimates of our social self that reflect the attitudes of different groups in which we participate to the role we play. Our self-evaluation, therefore, often changes as we shift from group to group. Many a small-town star of the high-school football team, who has accepted the small-town evaluation of himself at its face value, has had to recast his notions of his athletic role when he first tried out with the college team. His old social self gets a bad deflating until he develops a new scale of measurement. In time he rates himself by new standards and derives a new conception of self with reference to the athletic role, and any other roles which the new group because of its more rigid standards of competition rates differently.

Statuses attained in the various groups by a person as he plays the respective social roles expected of him are a vital part in personality formation. Those who play distinctive roles and achieve high status tend to trust themselves and to respect themselves. They achieve a self-confidence that makes it possible for them to put themselves to greater tests. This is essentially what we mean when we use the old proverb "nothing succeeds like success."

The broad statement made in the preceding paragraph must be qualified in some measure. While the person's conception of himself is a direct reflection of group evaluations of the status accorded him in the group, the individual may not regard his achievement in any given situation as the group does. He may be inclined to discount or to overrate his status.

Karl A. Menninger, noted psychiatrist, in his book, *The Human Mind,* tells of a Herman Schmidt, who before his psychiatric treatment, felt himself to be a complete failure. He was elected repeatedly to positions of highest responsibility and honor by his class, yet still felt he was despicable, the "lowest of the low," unworthy of trust.

Here obviously is a person whose conception of the importance of his roles in the group are entirely out of step with the status the group accords him. He has high status among his peers, yet senses the guilt and uncertainty that usually go with lack of success in playing social roles. Why?

We have all known such people. It is actually possible for a person to have a different picture of himself than that currently reflected in the group "looking glass."

If we were to bring all the Herman Schmidts that we all have known together, we would find much similarity in their backgrounds. Somewhere along the line during childhood they were the victims of severe group rejection; perhaps it was their mothers, perhaps playmates. Somewhere their roles in social groups compared unfavorably with group expectations for them. An unfavorable conception of their ratings by others became so over-whelmingly painful that it has stayed with them. Repeated successes have not yet wiped it out.

They carry forward with them a conception of their social self which is weakening and tortuous. Their personalities are torn by guilt and uncertainty even in the face of success in the new groups in which high status has been accorded them. In this they manifest neurotic tendencies. Their social self is not a unified whole, but a divided entity, with segments pulling in different directions.

They are always tired even though in perfect physical health.

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They carry over from the past, in what Freud called the unconscious mind, a conception of a rejected and defeated social self, a conception in direct contrast to the actual status accorded them in new groups. In curative work, the psychoanalysts and psychiatrists try to probe back into the buried past of the tortured individual, bring these painful conflicts to the surface, and free him from the guilt and anxiety that resulted from his early defeat in making group adjustments.

In the case of the Herman Schmidt in Dr. Menninger's account, the father had been confined to a state mental hospital for a time during Herman's childhood. The mother stayed away from social functions and from other people and kept the child from associating with those of his own age for fear they would tease or mistreat him. The fear of group rejection on account of this past was still overwhelming, even though Herman was succeeding in his current school adjustments.

It must be recognized, of course, that persons of different temperament react in different ways to the success or failure in playing various group roles. Some individuals of sensitive temperament who have suffered little defeat develop painful feelings of social inadequacy. Others of tougher temperament who have been defeated frequently in their attempts to find an important place in some group or groups, may suffer less intensely. Those individuals who become habituated to being inferior in various group roles in time become victims of an inferiority complex.

*An inferiority complex is a set of emotionally toned attitudes developed through experiences which give one a sense of failure in every undertaking.* Certainly Herman had an inferiority complex.

We conclude from this study that it is important to recognize not only the actual status one has in his group, but also his own evaluation of that status. They are likely to be similar, but not necessarily identical. In some cases an individual may have suffered from unfavorable social status in so many situations as a child that he has developed a habitual attitude of self-criticism and devaluation. Later, even when he usually encounters favorable reactions from the group, he is still self-derogatory and cannot accept the status given him. Others more tough in temperament *compensate* and refuse to recognize unfavorable group opinions, strengthening their egos by braggadocio behavior or cold self-sufficient aloofness.

In the preceding discussion we have illustrated a characteristic of personality which has key meaning in any analysis, *integration*. What does the sociologist mean by personality integration? By *personality integration he means the coordination of the various social selves so as to make an effective response to the social environment.* If the selves are not integrated, the person is torn by internal tensions and conflicts. The internal tensions become obvious to others when they express themselves in social maladjustment, that is, inability to function effectively in the group.

Herman Schmidt's internal tensions over the social self he had developed in the past, that of a recluse fearful lest the school groups or playmates know his disgrace, and the present one, that of a respected leader of the group, became so overwhelming that he dropped out of school. He could not face group adjustments any longer; his lack of personality integration expressed itself in social maladjustment. It was at this point that the case was brought to the psychiatrist, who helped restore harmony between his inner social selves. This done, he was able to function in the group as a reasonably well-adjusted person.

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*Can we make a scientific study of the future*

# Futurology: The New Science?

By OSSIP K. FLECHTHEIM
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THE phenomenal success that Arnold Toynbee's two books, *A Study of History* and *Civilization on Trial,* have been enjoying throws a revealing light on the status and prospects of our civilization. Though the first three volumes of his *Study* were published as early as 1933, few but the most philosophically minded historians and sociologists paid much attention to his *magnum opus* until last year. After the publication in this country of the abridged version of his great work, people suddenly began to look and to listen. Today Toynbee is the New World Spengler: a prophet of doom and hope.

Nobody dares assume that the hundreds of thousands of readers of our "enduring best-sellers" have become "students of history" for history's sake. We suspect that they have as little interest in the "palingenesias" and "transfigurations" of Toynbee's 21 civilizations as the European reader of a generation ago had in the "morphology" of Spengler's eight "High Cultures." And this not without good reason. For in spite of some unique intuitions, Spengler's significance consists not so much in his oftentimes arbitrary constructions of the past as in his frequently ingenious insights into the future. Toynbee, too, though he is a somewhat more cautious interpreter of past history than Spengler, appeals to the average reader for what he intimates about the future of Western civilization. Thus, in spite of their differences, the "Prussian Socialist" and the Anglo-Saxon Episcopalian are to be counted among the founding fathers of a new kind of human knowledge devoted to the crucial problem of the future.

Man's concern with the destiny of his tribe, city, and nation is almost as old as his preoccupation with the future life of his soul and body. What astrology attempted to achieve for the individual, prohecy tried to accomplish for the group. Cassandra foretold the fall of Troy; Jeremiah prophesied the doom of Jerusalem. Medieval historiography refers to a "history of things future", and the oracles of Nostradamus still find many readers because of the phophecies read into them about the events of our epoch. Throughout history, especially in times of trouble, prophets and seers have abounded. Yet even in more stable times the voice of the prophet, "true" or "false," has never completely faded away. Since the days of ancient Egypt and Israel, the "beyond" of space and time has served as both the sacred preserve of the seer and the happy hunting ground of the charlatan.

The theological concept of human history as a brief chapter in the eternal book of God's creation, beginning with the Fall of Man and ending either with the Millenium or the Last Judgment, has long since been replaced by the this-wordly theory of progress. Divine perfection and human salvation were transplanted from the realm of a transcendent heaven to a future kingdom of God on earth, toward which the historical process was aiming. This millenium was no longer to be reached through death and salvation, but rather through the striving of mankind for improvement in time and space. What Carl L. Becker calls "The Heavenly City of Eighteenth-Century Philosophers" was built with many earthly bricks. If proof is needed, we have the enduring testimony of the Marquis de Condorcet, who when he was facing death in 1793-94, proclaimed his undying faith in both "the future progress of mankind" and



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the predictability of the "future destiny of mankind from the results of history":

> The friend of humanity cannot receive unmixed pleasure but by abandoning himself to the endearing hope of the future. . . . . If man can predict, almost with certainty, those appearances of which he understands the laws; if, even when the laws are unknown to him, experience of the past enables him to foresee, with considerable probability, future appearances, why should we suppose it a chimerical undertaking to delineate with some degree of truth, the picture of the future destiny of mankind from the results of history? . . . . In short, as opinions formed from experience, relative to the same class of objects, are the only rule by which men of soundest understanding are governed in their conduct, why should the philosopher be proscribed from supporting his conjectures upon a similar basis, provided he attributes to them no greater certainty than the number, the consistency, and the accuracy of actual observations shall authorize? Our hopes, as to the future condition of the human species, may be reduced to three points: the destruction of inequality between different nations; the progress of equality in one and the same nation, and lastly, the real improvement of man.

Condorcet's voice echoes the radical ideology of the French Revolution, which in the nineteenth century gradually changed into the more sedate and scientific theory of evolution. To Darwin and Spencer, the future appeared as gradually and unnoticeably evolving from the past. As the present became ever more acceptable to the prospering middle-classes, the intellectual spokesmen of the age conceived of the future as constituting but a bigger and better present. Hence the growing number of scientists naturally limited their investigations to the past of man or to the ever recurrent present of nature. Though Comte might concern himself with the future, most scholars of the positivist nineteenth century consistently barred such concern from the halls of respectable learning. It was only natural that the future should come to be monopolized by the "lunatic fringe" of the academic and literary world.

With all its scientific and technical dynamism, the Victorian period was an era of social stability when fundamental social change occurred too slowly for most people to be aware of it. As Whitehead puts it, down into the nineteenth century "the time-span of important change was considerably longer than that of a single human life." Small wonder, then, the age-old view that the past, present, and future of society constitute but so many links in an unbroken chain, called human history, was slow to disappear!

We who are born in the Atomic Age are living through an upheaval possibly surpassing in its impact the Neolithic and Urban Revolutions which opened the chapter of historic civilization some 6,000 years ago. This is the first period in human history when universal basic change occurs within less than one generation. The rate of such charge is increasing so rapidly that its effects have already become extremely disquieting. At the same time science, one of the revolutionary factors, has been constantly expanding regardless of any signs of disintegration in the social and political sphere. Increased concern about the future, combined with the ability of science to deal with an ever-widening range of material, creates a condition generally favorable for a scientific study of the future, which we may call Futurology.

To be sure, the gravity of the crisis, which science itself has in large measure produced, is erecting new barriers of resistance against objective and uncompromising forecasting. For in the face of such uncertainty, the average person is likely to repress his curiosity and concern by withdrawing into supposedly safer shelters. Some retire into what Walter Lippmann once called "the peace of human privacy;" others attempt to forget the present by burying themselves in the archives of a dead past. Again there are those who spend themselves in meaningless pursuit of an episodic present. Others who do look at the future view it through glasses colored by their own subjective expectations and desires.

The nature of science induces its disciples to continue their search regardless of the outcome. They have been conditioned by temperament and training to devote their lives to knowledge for knowledge's sake with the prime purpose of widening the area of human comprehension. Pure social science is almost as self-propelling and accumulative as pure natural science. Consequently, the ever-increasing pace of scientific exertion of all kinds has resulted in the accumulation of an impressive body of material dealing not only with the present and the past, but also with

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the future. During the last hundred years, the birth and growth of a scientific natural history, sociology, and anthropology have yielded a series of significant and serious predictions. Still more recently, the development of a dynamic psychology, with its application to the problems of society, is removing another obstacle toward the understanding of the present and future of man and his world.

While the social sciences automatically reflect our general unrest and uncertainty, the natural sciences are undergoing a crisis of their own. As specialization has led to contradictory conclusions, basic assumptions have become doubtful and are being re-examined. From the coincidence of these two crises, the need for a rigorous and thorough re-integration of all knowledge is felt more keenly than ever. To meet this need, attempts are being made in three directions. First, we can discern a renewed interest in philosophy which, drawing upon the exact sciences, is once more attempting to integrate the universe *sub specie aeternitatis*. Second, a philosophically minded school is now using the past to focus upon the totality of all human endeavor. Third, philosophically oriented sociology and psychology are laboring to encompass the entire human reality from the standpoint of the present. Closing the last remaining gap, Futurology will undertake to discuss man and his world in the hitherto forbidden future tense.

The question, of course, arises whether such an undertaking should be called a new science. It probably suggests to the reader only a congeries of claims, based upon broad generalizations and fragmentary findings, which lack the unity of content and method of organization of the more established sciences. It is, therefore, imperative to examine the peculiarities of Futurology. While no attempt will be made to present those findings which already exist, the following basic issues are to be considered: what is the exact meaning of Futurology; what is its content; what are its methods; how reliable is it; what functions does it have; and what are its prospects?

Winston Churchill has boldly spoken of "the awful unfolding science of the future." The author, in suggesting the term "Futurology," prefers to leave it up to the reader to think of Futurology either as a genuine science or as a "pre-scientific" study. Much will depend upon our definition of the term "science." If we think of the term only in the original meaning of "exact science," Futurology will not qualify as a science. If, however, we define science more broadly as a system of organized knowledge concerning the facts of a particular subject, Futurology will pass as a science to the same extent as any of the humanities (musicology) and most of the social sciences (history or political science).

What distinguishes Futurology from the other sciences? We know that the borderline between the various branches of knowledge is not a hard and fast one; it is subject to incessant change. In time, new insights lead to new sciences. Sometimes the discovery of new material causes a branch of learning to split off the common tree. When information about the physical world began to increase, the sciences of nature separated from their mother discipline, philosophy. Much later, as a result of revealing investigations about the specific functions of the human mind, psychology emancipated itself from philosophy. Contrariwise, hitherto dispersed findings are brought together and integrated into a new discipline which treats the same materials in a new way. Thus sociology, the generalized study of society, or history are younger than some of the more special sciences upon which they draw. Since Futurology represents a new synthesis of varied materials, it is closely related to history and could indeed be pictured as a projection of history into a new time dimension. In the absence of written or unwritten records, however, Futurology must make use of a different method of approach. It cannot work with the chronological sequence of detailed facts. Instead it will avail itself of interpretation, generalization, and speculation to a considerably higher degree. In this respect, its kinship to cultural anthropology, theoretical sociology, or even social philosophy becomes apparent.

Next, the field to be covered by Futurology must be delineated. Because of its broadness, only the barest outlines can be drawn. Since Futurology encompasses the destiny of man, it must deal not only with his prospective biological and psychological evolution, but also with the entire range of his future cultural activi-

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ties. It includes all the natural factors and processes which will have a bearing on man and his culture in the time to come. In the exact sciences the bulk of investigations is concerned with quantitative determination of an infinite number of eternally recurrent, and in that sense, "timeless" phenomena. Futurology can take in only the long-range hypotheses and theories concerning the prospects of the universe and the solar-system, the future evolution of the earth.

The following forecasts made by Professor George Gamow may serve as examples in point: "Before the next advance of ice the climate of the earth is bound to become much warmer than it is at present, and the maximum will be reached about the year A.D. 20,000;" or "at some more or less remote future date humanity will witness (tectonic) catastrophes unprecedented in its past history" though "the probability that outbreak will occur within the next decade or the next century is negligibly small." Or one might cite a contrary prediction by Professor Mather: "For many scores, if not hundreds of millions of years to come, the earth will continue to be a comfortable habitable abode for creatures like ourselves." Focusing on the genetic changes in the human species, the famous biologist J. B. S. Haldane anticipates that, within the next 500,000 years, man's life span will reach several centuries while his formative period, physically as well as intellectually, will last 40 years. Only at the age of five he holds, will a child be likely to begin to talk; yet the I.Q. of the average person will approximate that of the genius of today. Forecasts such as these are of interest to Futurology not only because of their intrinsic importance, but also on account of their direct bearing upon the future of man.

Second, Futurology tries to answer as scientifically as possible the problem of the destiny of our civilization within the next centuries. This set of topics has been the crux of numerous historical speculations, philosophies of society, and theories of culture. And ever since the writing of Marx and Nietzche, it has increasingly stirred the imagination of the general public. The following questions continually arise: Can we anticipate an uninterrupted growth of Western civilization along lines firmly drawn throughout its millenial history? Will the history of the future corroborate the theory that the class structure, the power pyramid, the cultural exclusiveness of previous civilizations will be repeated in our own development? Will our civilization be characterized by a new functional organization, by the elimination of power, and by the growth of an inclusive world culture? Will mankind as an ever more integrated community continually progress towards greater liberty, equality, and fraternity through the use of organized intelligence, world-wide cooperation, and peaceful adaptation? Or is our Western civilization irrevocably doomed to decline as a result of economic crises and cultural upheavals? Will war and want, hunger and tyranny prove passing clouds on a bright horizon or will they reveal themselves as the long shadows of death?

And what, within this gigantic drama, will be the role of competing ideologies and empires? Will Fascism or Bolshevism prove strong enough to conquer the world? Will one of these two contenders have sufficient material and immaterial inner resources to stabilize and unify the planet? Or will a "third force" succeed in overcoming the extreme polarization of the world today? Will it succeed in reorganizing the globe within the framework of a democratically planned world economy and a federally constituted world government? Will the bloody surgery suggested by both Fascism and Bolshevism lead to a recovery of a sick mankind or will it be followed by permanent impairment or even death of the patient? Will the milder medicine of piecemeal reform and peaceful evolution produce sufficiently potent and speedy results, or has the "malady" of our society progressed to a point where "medical" treatment would be futile? Is Western civilization so decrepit that any interference whatsoever is bound to jeopardize its survival? Again, in refraining from regulation and control, will we not abandon our dynamic society to the mercy of blindly destructive forces? These are some of the topics with which Futurology will have to wrestle.

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# OUR POLICY IN LATIN AMERICA

*By EDGAR S. FURNISS, JR.*
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WITHIN the past six months, the governments of Paraguay, Venezuela, Peru, Chile, Guatemala, Costa Rica, El Salvador, Nicaragua, and Bolivia have been shaken by revolutionary disturbances. Even in an area not noted for political stability, such revolutionary activity exceeds the norm. What relation do these unfortunate events bear to the foreign policy of the United States?

We are so accustomed to a non-political military establishment that its blessings are taken for granted. Every effort by civilians and military men alike is directed toward keeping the armed forces completely removed from domestic politics. This non-political role is possible because of the fundamental devotion of Americans to the democratic process. American governments, conservative and liberal alike, are free from fear of revolutionary plotting by the citizenry. The citizenry in turn are secure in the knowledge that periodic opportunities will be presented to them to approve or disapprove their government, to maintain it in office or to elect another more to their liking.

It is this kind of political stability which enables the American armed forces to concentrate on the job of maintaining the security of the United States. This stability has been lacking and still is lacking in many of the Latin American republics. Because governments are not free from revolutionary adventures by their citizenry, they attempt to bolster their power through use of the national military establishments. Because the people and various ambitious factions have often been denied the opportunity of the ballot, they turn to the bullet to solve the problem of an unsympathetic government. To both government and opposition, the armed forces are thus a vital asset. In such circumstances, a non-political role for the military is difficult in the extreme.

The difficulty is directly related to the size and power of the military establishments. A small army finds it easier to stay out of politics: its own inclinations in that direction are strengthened; appeals to it by government and revolutionaries are less impassioned. Conversely, a government strongly supported by an efficient armed force has an overwhelming tool of political coercion at hand with which to scrap elections, maintain power, and in general make a mockery of constitutional procedures. The people, who in the past may have connived and appealed to self-help to change the regime, can no longer muster the force necessary to remove the autocracy foisted upon them. The armed forces become the determinant of government existence, to say nothing of government policy.

It should not be imagined that all Latin American governments conform to this pattern. In some, such as Chile and Mexico, the building of political stability has largely removed the military to their proper sphere. In others, however, the picture is all too plain. President Somoza may relinquish office, but General Somoza controls Nicaragua with his *Guardia Nacional.* It was loss of army support that caused the sudden end of the constitutional governments in Venezuela and Peru, both of which had succeeded a dictatorial regime.

Given such a situation, American policy should be



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directed toward the active encouragement of non-political military establishments in Latin America and toward the growth of constitutional government so fervently desired by most responsible Latin Americans. Unfortunately, despite protestations of its good will, American policy has not had any such consistent direction.

At the outbreak of World War II, Latin America was the largest disarmed area in the world. Disarmament is a relative concept. The military establishments varied greatly, but in very few countries was the force a modern one in terms of size, training, and equipment. As part of our war-time cooperation with Latin America, we Lend-Leased over 400 million dollars worth of military equipment to 18 countries—all but Argentina and Panama. Provision of this equipment made some slight military sense in the case of countries such as Brazil, Mexico, Chile, possibly also Cuba and Peru, all of which were assisting the United States in naval patrol operations. But the arms did not go only to the navies. There was army materiel —only Brazil did any fighting on the ground in World War II—and airplanes—only Brazil and Mexico did any fighting in the air. Others used planes as aids in patrolling. Supplying this materiel could only be condoned as the political expense necessary to buy cooperation from Latin American governments. Some governments and more common people, be it said, were somewhat saddened to be paid in such coin.

With the end of war, Lend-Lease ceased. The damage, however, had already been done. The level of armament in the hemisphere had been substantially raised. National armed forces had much more potent weapons with which to change governments or to keep them in office. In theory, United States military missions supplied with equipment to train Latin Americans in its use could have emphasized the non-political concept of military policy at all opportunities. Theoretically, because Lend-Lease equipment was to be used against the Axis, it could have been reclaimed if an unsuitable use were made of it. There is little evidence that American personnel seriously attempted indoctrination of democratic military procedure. There is no evidence of reclamation of unemployed military equipment; considering the political purpose of Lend-Lease, reclamation of the materiel would have been the height of hypocrisy. Indeed the important factor was the presence of an efficient army, in an unstable political situation, not the actual use of the weapons for or against a particular government.

With Lend-Lease at an end, little time was lost in asking Congress for authority to continue the supply of arms on a permanent basis. Entitled the "Inter-American Military Cooperation Act" and sponsored with varying degrees of enthusiasm by the State, War, and Navy Departments, the bill was skillfully tied in with efforts to create a peaceful system in the Western Hemisphere. Thus it was argued that more arms would enable Latin American countries to help one of their number attacked by a country inside or outside the hemisphere. Such reasoning ignored the assistance the same arms would provide a Latin American aggressor. It also ignored the hard facts of international life that have placed upon the United States the sole responsibility for defending the hemisphere from outside attack.

## INTERIM PROGRAM

Inaction by Congress has twice killed the Military Cooperation Act. Failure of the bill to pass, however, did not prevent the executive branch of the government from sending supplies of military equipment to Latin America. Sufficient existent authority has been found since 1945 for the provision of what is called an "interim" program of military assistance—"interim" pending the passage of the Military Cooperation Act. More modest than projected operations under the latter would be, this program has nonetheless unobtrusively continued the upward trend of Latin American armament. Far from encouraging greater aloofness from domestic politics by armed forces, an additional premium has been placed on their support. It has inevitably become even harder to replace a tyrannical government. Greater temptation exists for armed forces to unseat a government which does not operate in its interests. It is also sad but true that military interests and progressive democratic interests may be incompatible more often than not. A show of army hostility was all

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that was necessary to drive out the Venezuelan and Peruvian governments which had only recently been hailed as augurs of better times for two countries all too frequently a prey to dictatorship.

Most inter-American conferences record the common aspiration of the assembled republics to democratic procedures and practices. What should the responsibility of the United States be in encouraging the growth and fruition of this laudable sentiment? During World War II, the American people and their leaders clearly understood that the war was being fought against fascist totalitarianism. Embarrassing members in the democratic ranks, such as the Soviet Union, had to be covered with a liberal whitewash. Our policy toward Latin America was less clear but it pointed in the same general direction. With a few untimely exceptions, Latin American dictators, while getting their share of military material, were kept politically at arms length. Argentine regimes, whether of the reactionary Castillo variety or the military Perón type, were excluded from all military and most economic favors on the sound grounds that their actions aided our enemies and not the United Nations.

The Lend-Lease policy outlined above muddied our policy, confused its aims, and frustrated some of its objectives. Latin Americans could and did often wish for more clarity from the United States, but they had reason to believe that their Good Neighbor, fighting fascism abroad, was opposed to dictatorship in its backyard.

Immediately after the surrender of Germany, there was an interlude during which the State Department was even more positive in its encouragement of stable, constitutional regimes in Latin America before Spruille Braden and Ellis Briggs, seasoned, experienced diplomats, took over the direction of our Latin American policy. Both were men of positive, democratic sympathy who did not feel that diplomacy and a mealy-mouthed expression had to go hand in hand. By speaking out boldly against the fascist-like brutality of the regime, Braden had incurred the implacable wrath of dictator Perón. Some viewed his return to the Department as a kick upstairs. They were mistaken.

Dictator Trujillo was all too uncomfortably aware of the disfavor with which Briggs viewed his monopoly of the Dominican Republic. With the able assistance of George Butler, the position of the State Department was made clear on certain vital matters. Never was there any question of a return to big-stick intervention by the United States in the internal affairs of Latin American countries. Such practices did not succeed in doing more than stirring up deep resentment of all the proud peoples. But while active intervention could not be used as a weapon on behalf of democracy—a contradiction in terms—this country could and did speak its mind publicly and privately as to its preference between dictatorial and constitutional regimes. When Trujillo ventured to request some armament and more cordiality, the Department's blistering reply reminded him of past performances. When Somoza, able tactician that he was, began to maneuvre for continued title of president, he was informed that this country would esteem him more if he dictated less.

Even the private word spreads rapidly. But individual expressions were fortified with general pronouncements to dispel any lingering doubts. The United States, so the polite jargon ran, had more sympathy for those regimes which were based upon the periodic, freely-expressed will of the people. The policy cut two ways. It reminded dictators that no favors would be accorded them and that the United States would welcome their departure. It assured peoples struggling toward constitutional government in countries which had rarely if ever enjoyed such a phenomenon that their efforts would be watched with friendly interest. Guatemala took hesitant steps toward democracy; Haiti threw out its dictator, as did Venezuela and El Salvador. Villaroel met an end as gruesome as his official acts. Even Morinigo in far-away Paraguay shuffled away from the army which supported him toward an opposition which wanted more freedom in the small country.

Of two facts there can be little doubt. There has long existed among Latin American as well as other peoples a strong drive for freedom. With better health, education,

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and a higher standard of living, it becomes stronger. Given a little freedom, the people want and demand more. The road is not easy because democracy is not a process that is easy to learn or easy to operate. Nor is it an institution that comes in one mold applicable at all times to all circumstances. Tolerance of other solutions and other ideas is one of its basic tenets.

The second fact is that this drive for freedom and democracy was making progress in Latin America during and immediately after the war in spite of the additional burdens placed upon it by Lend-Lease and "interim" programs. Messrs. Braden and Briggs, who had recognized the intimate connection between American interest and the growth of democracy in Latin America, could not occupy their positions in the Department for long. Since their departure, a somber silence has enveloped the Department until recent events forced some official pronouncement. Their policies have been quickly abandoned or reversed. The pariahs of yesterday have become the returned prodigals of today. They have been allowed to see that the big North American country really does not distinguish or care to distinguish between hard-handed dictatorship and struggling democracy. Perón, whose country was shoe-horned into the United Nations, now receives the most polite of smiles. There is no word spoken when Somoza deposes an intransigeant puppet in favor of a more pliable one. "Interim" programs, presented before Braden entered the Department, have been executed and continued without the elementary safeguards which he wished to see installed.

The results of this abdication of responsibility are the headlines in our newspapers. Venezuelan armed forces depose their president; the head of the Peruvian government flees the country as the army takes over; the Guatemalan government is forced to suspend constitutional guarantees after a revolutionary plot is uncovered; a Chilean prosecutor points to the direct connection between Argentine diplomacy and an abortive revolt against his president. As the leading paper of Colombia points a warning to the remaining Latin American democracies, we seek in vain to deny our concern with calamity. Our influence and weight in Latin America is a fact, just as it is in the rest of the world. We may wish that we did not have that influence and that weight, that we were not occupying the center of the stage, the target of the hisses and catcalls, as well as the applause. Such dreaming is worse than useless. It leads to the dangerous delusion that the United States can escape responsibility for what happens by strenuously denying it.

With the steadfast encouragement of the Good Neighbor, more and more Latin American countries could find their own way to constitutional stability. Such a policy is not only in keeping with our professed ideals; it it good business as well. A free and stable country makes a willing and able partner of the United States in the inter-American community and in the world. To neglect our responsibility and our opportunity is to contribute even further to the growth of military autocracy and to the continuance of personal dictatorship.

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JASPER R. LEWIS

# Books in brief

An instructive and fascinating study of the American people is offered in *Paths to the Present,* by Arthur M. Schlesinger (Macmillan, $4.00). Here is history as reflecting flesh and blood people. Starting with the question asked centuries ago by the Frenchman, Crevecoeur, "What then is the American, this new man?", the author proceeds to dissect the American character. Schlesinger, Professor of History at Harvard, is author of a number of volumes on American history. In this current work, he is concerned with the influences that made Americans different from the citizens of other countries.

It is not news that the colonists learned to be self-reliant and aggressive, but with the displacement of hereditary classes came a strong individualism. Distinction based on wealth simply made the struggle for riches an open contest. Early settlers and leaders, optimistic and believers in themselves, left their marks on the American character. So definite were the achievements of the times, in terms of material progress over the wilderness, that a natural sequence was the tendency to believe nothing impossible for the country to achieve. That belief still stands.

With the gradual change to urban living came the greater interest in culture, education, books, and newspapers. With it also came more unemployment. In 1893 the A. F. L. declared that when the private employer did not give sufficient work the government must do so. This has since become an accepted view of the government's responsibility at least on labor's side, although somehow the Americans' love for individuality remained. Through unions and associations they might ally themselves for general betterment, but in government they disliked collective organization.

The tendency to be "a nation of joiners," from about Franklin's time on, proved a boon in many ways. Through group action economic progress was possible, whether the objectives were beneficent or selfish. Political parties as they developed were an outstanding example, even though Washington and others condemned them. While businesses and business men found it expedient to join forces, as in corporations, they opposed similar action on the part of wage earners. Despite this, there were unions in the 1830's, with hundreds of thousands of members. Another device of our social economy, become a fine art today, is the designation of "weeks"—Fire Prevention Week, Book Week, Canned Foods Week. All of these things seem to stem from the early necessity for collective action. Later, of course, they were merchandising stunts.

Schlesinger emphasizes the part played by immigrants in the new world. "If genealogy were the sole criterion, a Colonial Dame or a Daughter of the American Revolution might have nothing but French or German blood, or even pure Negro blood, in her veins." Another phrase equally descriptive is: "The musty archives of Newgate and Old Bailey would undoubtedly clear up questions as to the genesis of many a present-day family of ancient American lineage." Another example was the heavy migration from Germany in 1848 and just prior. The restless independent spirits came here, leaving the less energetic and more



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easily dominated masses behind, possibly one cause of later German "political immaturity."

Schlesinger comments wisely on the great American custom of knowing all about politics. But he himself speaks of the "recession from liberalism which began in 1947." Probably that was written before the last election, but it serves to point his own remarks. Americans are that way.

There are several important chapters on the presidency and its incumbents. Schlesinger tries to evaluate the men who have been Chief Executives and what is more important, discusses some of the questions still to be solved in that department. One of these is the lack of a provision to retire incapacitated presidents promptly, exemplified by the Wilson and Franklin Roosevelt cases. Another is the "debasing process" of picking a vice-president. Then there is the fact that only the states with numerous electoral votes get a chance at the top post.

Our international position, both during the world wars and at peace, shows a definite advance from isolationism to cooperation. There are entertaining comments on the habits of our people in times of stress, domestic and foreign, but the same spirit of courage and the will to win are always present.

Seriously as the subject matter should be taken, Schlesinger imparts to it a semihumorous, affable spirit, as much as to say, here's your America and how it got that way. Every American should read it.

To see ourselves as we aren't, but as he would like us to be, read *Actions and Passions,* by Max Lerner (Simon & Schuster, $3.50). He calls these chapters "Notes on the Multiple Revolution of our Time," which of course they are, since they concern today's upside-down world. Unfortunately, they are dated, being selected from the author's daily stint in the late *P. M.,* which expired as the New York *Star.*

Brilliant as he is, Lerner suffers from anguish over the capitalists. He is not pro-Communist, but he seems pro-Russian, if there is a difference. He is against anything smacking of self-protection against the Russians and for anything answering to the trumpet of liberalism. The exigencies of writing each day for a daily might be the cause of his continual harping on the wrongs done minorities, which makes far more noise rather than a sound appeal for their rights.

Another safe target are corporations and their selfish attacks on labor unions, and even government regulations against strikes. Most of all, enjoy his tirades on politics. His dispatches on the 1948 Philadelphia conventions, both Republican and Democratic, analyze well public sentiment over the two parties and their candidates, even if Lerner guessed wrong about the outcome. His appraisals of the personalities of Wallace, Truman, and others sound solid and reasonable, and much of his thinking on domestic political questions is keen and supportable. All in all, one can disagree with what Lerner writes but still admit that the way he writes is stimulating, pro and con.

## BRIEFER COMMENT

### POLITICS

The inner circle of Russian leaders—the Politburo—lists 13 men, headed by Stalin. These control the Soviet. *Stalin & Co.,* by Walter Duranty (Sloane, $3.00), is an introduction to these men, based on Duranty's study while correspondent in Russia. It is an attempt to acquaint Americans with these leaders of Russian thought, but not to judge them. Duranty evidently feels the Russian people follow these leaders, and are not to be considered as separated from them. He writes about each individual, his background, and his outlook on world affairs.

Appraisal of the status of the American occupation of Japan, with reference to the effort to change her economy, political and industrial, is the theme of *Prospects for Democracy in Japan,* by T. A. Bisson (Macmillan, $2.75, under the auspices of the Institute of Pacific Relations). Bisson cautions against our playing into the hands of the Japanese old guard.

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*Socialist Britain,* by Frances Williams (Viking, $3.00), is an interesting review of the experiment with a Socialist form of government now going on. Williams not only explains the operations of government and economy under this regime, but gives estimates of the leaders and their abilities. There is some discussion of relations with Russia and with the United States. It offers a good picture of Britain today, as seen by a Briton.

*The Truman Program,* Edited by B. M. Schnapper (Public Relations Press, $2.95), is a collection of addresses to show Mr. Truman's views on domestic and foreign issues.

A Red Cross worker's appraisal of Japan under occupation is contained in *Popcorn on the Ginza,* by Lucy Herndon Crockett (Sloane, $3.50). An 18 months' tour of duty in Japan gave the author an opportunity to see the way of life of the people and their reactions to American control. Miss Crockett gives a pleasant, intimate picture of the people, and a not hopeless prediction of their future. Apparently she feels there is a good deal of fight left in the Japanese; which way it will go is the problem.

## MISCELLANEOUS

A Baptist missionary's life in West Texas and New Mexico at the turn of the century provides the biographical material for *Pioneer Preacher,* by Opal Leigh Berryman (Crowell, $3.00). The author relates her father's experiences with the somewhat tough cowpunchers of the era and the area, to make a descriptive and entertaining volume.

Abraham Lincoln, like all presidents, invoked Deity in his speeches and addresses, but according to report never "belonged" to any church. *Lincoln and the Preachers,* by Edgar DeWitt Jones (Harper's $2.50), contains the record of talks with ministers and recollections of Lincoln's reactions to suggestions by them. Also reported are some of the references to Lincoln by preachers who used his life or character as material for sermons.

*Three Thousand Years of Espionage,* Edited by Kurt Singer (Prentice-Hall, $3.00), has some excellent spy stories in the form of narratives by various authors. Singer provides several chapters himself. Spying goes back to the Old Testament, quoting the Bible. There are tales about the ancients and, of course, recent generations furnish more than their quota, some because of the world wars. Good reading for the mystery loving, some with authentic information.

At first glance, *The Dukays,* by Lajos Zilahy (Prentice-Hall, $3.50), seemed reminiscent of the Hungarian writer Jokai. This is the story of a Hungarian aristocratic family and its trials between the two world wars. First there is the feudal background; then the chronicle of our own times. There is a good bit of Austrian historical background and much development of character. There is plenty of interest, at times befogged by lengthy descriptions of unimportant characters.

*Mary Wakefield,* by Mazo de la Roche (Atlantic-Little, Brown, $3.00), is one more volume in the history of the famed Whiteoak family. In this one, Miss de la Roche goes back to tell the story of the motherless English governess brought to Jalna to care for the Whiteoak children, and the romance with its twists and turns between Philip Whiteoak and Mary Wakefield, with the near-tragedy of "the other man."

Indians, more or less friendly, canoes, adventuring, and pioneering make *The Shining Mountains,* by Dale Van Every (Messner) a moving frontier tale of the Lewis and Clark era. It is not juvenile, in many respects far from it.

Another tale of the old West is *Thunder on the River,* by Charlton Laird (Atlantic Little, Brown, $2.75). It is based in Indian territory beyond the upper Mississippi, with the famous Black Hawk as a live and important figure. The hero, out of Vermont, learns Indian lore the easy way—as an adopted son—and about love the hard way. America a century ago, in the wilderness of the West, is still a fit subject for adventure via the easy chair.

*The Grand Design,* by John Dos Passos (Houghton, Mifflin, $3.50), is the novelized version of American life under the first New Deal. It conveys a lot of the confusion and turmoil in Washington dur-

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ing the depression of the 1930's; the business man who gave up his thriving (even then) business to help out government; the secretaries who filled the capitol; and the many other actors on the American scene in office or out. It is not new; it is the work of one evidently disappointed by history, but it is still interesting because of Dos Passos' characters, even if they do not use punctuation marks.

*The People Know Best,* the Ballots vs. the Polls, by Morris L. Ernst and David Loth (Public Affairs Press, $2.50), tells of the undoing of the pollsters by Mr. Truman at the November election. The bad guesses of Lippmann, Kiplinger, and most of the country's press are discussed and analyzed. There are many quotations from numerous sources. It is decidedly entertaining, but the authors give it a serious basis by endeavoring to find out why the guesses were wrong and whether the public is fed up on commentators who presume to influence them.

The history of the Julius Rosenwald Fund, the story of its founder, and its philanthropic disbursements after his death, are well told in *Investment in People,* by Edwin R. Embree and Julia Waxman (Harper's, $3.00). Embree was president of the incorporated institution throughout its 20 years of existence. (The capital had to be disbursed within 25 years of the founder's death). The Rosenwald Fund was noted for gifts to schools and colleges, particularly where Negro needs were involved. The story is of interest as a record of social progress.

You can learn a lot about psychiatry and its practitioners from *How Psychiatry Helps,* by Phillip Polatin, M.D., and Ellen C. Philtine (Harper's, $3.00). Mrs. Philtine, a novelist, is the wife of Dr. Polatin. Together they tell of the science, its possibilities, and its treatments. They tell, too, about the men who qualify for the work; first their training as doctors, then as psychiatrists, later as psychoanalysts. Intelligent study of the volume might be helpful to many lay readers.

His battles with the Japanese and his skirmishes with the higher brass of the army are related with gusto in *Way of a Fighter,* by Claire Lee Chennault (Putnam, $4.50). The leader of the Flying Tigers tells all; his comments on politics and warfare are interesting and informative. The differences with General Stilwell and others are for time to evaluate, but as an explosive personal viewpoint it is roaring good reading on the war.

Soldiers and their lives: that is *To Hell and Back,* by Audie Murphy (Holt $3.00). Murphy is said to be the most decorated soldier of the recent war, rising from infantryman to lieutenant. This is the intimate story of men's lives—their fears and hopes in battles and their talk and doings between. Italy, France, and Germany are the areas. Murphy's story reflects the futility of war and the doughboys' thoughts on the topic, and he tells it well.

Man and his journey through the ages is the topic of *The Recovery of Culture,* by Henry Bailey Stevens (Harper's, $3.00). In this simply styled summary of the great movements and developments of the human race, Stevens puts emphasis on plant life and agricultural pursuits as beneficent factors, and cattle, blood fertilizers on the minus side in their effects on civilization. Legends and religious beliefs, old and new, are discussed as throwing light on man's journey. Stevens has a warm regard for Java and the peoples of Asia.

Those who have enjoyed Arthur Koestler's novels will find an entirely different Koestler in *Insight and Outlook* (Macmillan, $5.00). In this study the novelist becomes philosopher and psychiatrist, analyzing human nature, scientific discoveries, and the general evolution of the race. It is for the scholar.

*The Universe and Dr. Einstein,* by Lincoln Barnett (Sloane, $2.50), is an attempt to describe the universe in the light of Einstein's theories. If you think you can cope with Einstein, go to it.

Carleton Beals writes about Chile in *The Long Land* (Coward-McCann, $4.00). This is one of the Invitation to Travel Series, with Guide Sheets to give some quick information to travelers, and a large colored map of South America pocketed at the back. Beals tells his story less impressively than factually. Here is Chile and its customs to help you know the land.

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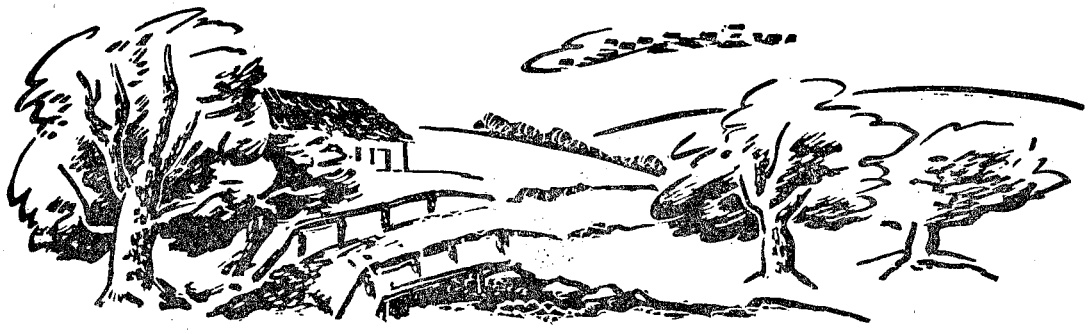

# COUNTRY COMMENT

Women are the clairvoyant sex. Cassandra, you remember, was a woman, and so were the Priestesses of Apollo at Delphi. Among the gypsies it is the women who tell fortunes. And my impression is that crystal-gazing is predominantly a feminine art. Perhaps all women are so constituted that they confront the future with more prescience and confidence than men. But when to woman's native vision is added the vision of modern science, that is, when a woman is also a scientist, her foresight may be nothing less than majestic.

What I mean is illustrated by an item in the weekly bulletin of a certain well-known Eastern college.

> Saturday. Observatory open to visitors. The Crescent Moon, Pleiades, Double Cluster in Perseus, and Great Galaxy in Andromeda will be shown. 7—8 P.M.

Only a woman's college, I venture, could produce such a cool, quiet little masterpiece of assurance. "Will be shown." And precisely from 7 to 8 P.M.

I see a rather small, compact, gray-haired figure with eyeglasses set securely on a determined nose. How could any man doubt the accuracy of her observations? If she says that the Crescent Moon, the Pleiades, the Double Cluster in Perseus, and the Great Galaxy in Andromeda will be shown on Saturday from 7 to 8 P.M., I take her word as final.

My questions are not astronomical, but rather meteorological, psychological, and possibly political. They have nothing to do with the presence out in space of the Moon, the Pleiades, Perseus, and Andromeda, nor with their proper right ascensions at a certain hour of a certain evening. Quite simply, granted that the heavenly bodies are out there, will they be shown if it happens to be raining? Or, given perfect observational conditions, if one of the college buildings happens to catch fire about 7 P.M., and all departments, English, Astronomy, as well as Fire, are laboring together to put the fire out? Or if an atomic bomb has just gone off somewhere within a thousand miles?

Could the notice have included one small modest qualifying phrase like "conditions favoring" or "God willing?" Anything to take the matter out of the realm of the absolute?

I had to ask these questions, but having asked them, I know my peril. The small compact figure with the gray-hair surveys me through her nose glasses. She is eloquent even before she speaks, and when she speaks, her tone is as eloquent as her words. "Have you, by chance, any common sense? And can anything be safely trusted to it? If it is raining Saturday and you come to the observatory, you will discover for yourself just how well the heavenly bodies will be shown. Would you advise me to draw up a list, every time the bulletin goes to press, of all possible obstructing contingencies, including earthquake, volcanic eruption, and tidal wave?"

Ignominiously I retreat from her presence. Ignominiously and as quickly as possible, before she has a chance to aim her great telescope at me and peer into the most remote crannies of my mind. Ay, to look right through me and on into the clear distant future.

ROBERT FRANCIS



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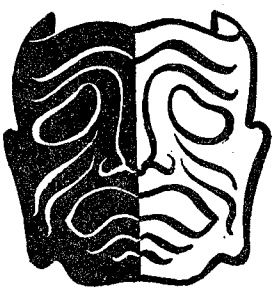
# The THEATRE ARTS



## by John Gassner

Two of the biggest guns on Broadway sounded off in February. Arthur Miller, the talented young author of the novel *Focus* and the Drama Critics Circle prize play *All My Sons,* reappeared on the stage with his best effort to date, *Death of a Salesman.* Clifford Odets, the white hope of the theatre of the 1930's, returned after many years of incarceration in Hollywood in a decidedly slashing mood with *The Big Knife.*

The ecstatic reception accorded *Death of a Salesman* has been reverberating for some time wherever there is an ear for theatre, and it is undoubtedly the best American play since *A Streetcar Named Desire.* Now it is two new playwrights of more than provincial significance, Arthur Miller and Tennessee Williams, that America can boast of as part of its post-war contribution to the theatre. Many of us would find it difficult to determine which of them is superior. A decision is hardly urgent at this time, and it is too soon perhaps to arrive at one while they are both still at the starting points of their respective careers. At present, it would appear that Tennessee Williams is the more creative artist but is in some danger of exhausting his particular theme of frustration. Miller is endowed with greater objectivity and comprehension of contemporary life but is limited in verbal talent and drawn toward the commonplace by a moralistic tendency. Williams is the truer poet; Miller, the better sociologist.

In *Death of a Salesman,* however, Miller has managed to rise above the ordinary flatlands of moralization and thesis drama. His play is a consummation of virtually everything attempted by that part of the theatre which has specialized in awareness and criticism of social realities. It is a culmination of all efforts since the 1930's to observe the American scene and trace, as well as evaluate, its effect on character and personal life. Clifford Odets succeeded in this enterprise more than creditably in *Golden Boy* and movingly, if somewhat dimly, in *Awake and Sing* and *Rocket to the Moon.* Generally our "social" playwrights' efforts, however, stressed the scene rather than the character even when they transcended special pleading or political agitation. Miller's achievement lies in successfully bridging the gulf between a social situation and human drama. The two elements in *Death of a Salesman* are, indeed, so well fused that the one is the other.

*Death of a Salesman* succeeds, in truth, as its author himself appears to have realized, as a character drama and an exceptionally good example of so-called "middle-class tragedy." It follows the fate and final reckoning of a commonplace man in a commonplace environment. It is the kind of play that usually falls decidedly short of tragedy and settles on the lower level of pathos, a drama ordinarily conducive to tear-shedding or sympathetic clucking rather than to exaltation of mind and spirit through impressive suffering. That this is not conspicuously the case in *Death of a Salesman* is perhaps the ultimate proof of its author's dramatic powers.

Other playwrights of his generation could have matched the verity with which he renders a traveling salesman and his family. They, too, could have depreciated the success-worshipping commercial traveler's "smile and a shoe-shine" philosophy. Miller alone has made the object of his analysis a



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breathing man and given him some stature. His hero, Willy Loman, may commit errors and may flounder in illusions like the rest of his clan, worshiping material success and thinking that it is bound to be won by sales talk and Rotarian chumminess. Willy may believe that you are worth nothing that you cannot sell and may instill the same notions into his sons. Willy may have the usual fling at extra-marital diversions that seem to be the custom of commercial travelers on the loose. But Willy is not quite commonplace in his commonplaceness. He maintains his faith, inane though it be, with a tenacity that is little short of heroic and when it crumbles, the man crumbles with it. The ordinary mirage that he follows is made extraordinary by the fervor of the man who is in pursuit of it; there is an element of the sublime in his naïveté! When he falls, we note the toppling of a giant; at the same time, we reflect that he was no brighter than other giants who figure in fairy tales hardly more fantastic than those Willy created for himself and mistook for the American Dream. There may be nothing remarkable in his disappointment in his sons, for whose vices and shortcomings he is at least partially responsible. Yet, disappointment has a tragic dimension in his case because he feels it greatly. His love for them had been too intense, his hopes for them too high. In his relations with them, he is almost a King Lear in mufti. He is closer to Shakespeare's or at any rate to Turgenev's "King Lear of the Steppes" than he is to Balzac's masochistic vermicelli-manufacturer, Goriot. The truth is that Willy Loman is cast in the heroic mould because he can feel greatly, even if his thinking could be bounded in a nutshell. And for this reason, he not only fills the dramatic scene substantially himself but adds substantiality to his well-drawn wife and sons. They gain substance from the magnitude of his relation to them, the magnitude being in himself.

Miller's technical virtuosity also stands him in good stead. He has a flair for tight construction, in itself only a second degree virtue, which becomes a virtue in the first degree because it gives him both the assurance and the skill to break the conventional mould of realism. The play shuttles numerous vignettes back and forth in time, but it gives an impression of inevitable cohesion—the cohesive demonstration of a man's mistakes. It is the summation of a man's life that would normally be presented as a chronicle, a horizontal kind of drama, but it becomes instead a spiralling affair. It starts with Willy Loman returning home instead of going away on another business trip, because he can no longer trust himself to drive a car. His story ends with his committing suicide in order to leave his family his insurance and to repair his personal failure. His past weaves through other episodes that carry the drama forward from the initial to the final point. Past and present move forward together, illuminating one another, and mounting in intensity. Reminiscences of Willy's errors as father, husband, and human being counterpoint his immediate difficulties with his sons and his employer.

In a production brilliantly staged by the genius among American directors, Elia Kazan, the play acquires the texture of music and the dynamics of a dramatic elegy. Misbegotten dreams that turn into nightmares hurl themselves at the bar of fate in wave after wave on Jo Mielziner's skeletal and many-leveled setting. The production defines areas for acting imaginatively rather than literally. At different times, portions of the space in front of the eviscerated Loman home become a suburban backyard, a Manhattan restaurant, a hotel room in Boston, and a cemetery, with the family and a friend standing by the freshly dug grave of Willy. The lighting and the incidental music by Alex North add fluidity and expressiveness to the proceedings. The actors are so maneuvered that their reality as people remains inviolable without contradicting or hampering the free-wheeling quality of the dramatic action in time and space. This constitutes modern staging in the highest degree, without pretentious estheticism and with complete persuasiveness.

The actors are exceptionally well chosen. If Lee Cobb's Willy Loman is too heavy-footed and portentous, if he resembles a monolith at times, he nevertheless possesses stature as well as statuesqueness. He is both

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the "Willie the Weeper" of popular song, staggering in the opium fumes of success-dreaming, and a giant threshing about in a snare of his own making. Set against him is the solid *bourgeoise* Charley, the kind but blustering neighbor. He is Willy's Horatio, and Miller is to be commended indeed for not making Willy stand for the whole of our middle-class life. Howard Smith plays Charley with recognizable humanity and with spirit, and also gives an external portrait that recalls the sensible burghers of Flemish and Dutch painting from whom he and his tribe can trace their descent. "Happy," played by Cameron Mitchell, is the son who incorporates Willy's *insouciance*. He is one of the many recognizable young men who will be found clerking, philandering, and swaggering, who do no particular harm but also no particular good. Biff, the other son, spoiled by Willy's indulgence, which encouraged him to steal and to expect much from the world because he played football at school, is the dislocated youth. He tries to free himself from delusion, his own and his father's. Having idealized his breezy father, he is shattered in spirit when he finds him entertaining a strange woman in a hotel room. His story is almost as moving as the father's, and Arthur Kennedy's Biff is even better realized than Lee Cobb's Willy. Set against both sons is the physically unimpressive Bernard, Charley's bright lawyer son, whom the Lomans set down as a negligible boy because he was studious and scrupulous. In Don Keefer's portrayal of the lad will be found the recognizable features of many young men who do not conform to the ideal of strenuous youthfulness that so often turns out the hollowest of men. The saloons are full of Loman boys while the professions are full of Bernards. Perhaps the best job of acting, however, is Mildred Dunnock's Linda, the Loman wife and mother who understands all and suffers all, the *mater dolorossa* of Brooklyn and of a substantial portion of the rest of the country.

Undoubtedly *Death of a Salesman* is one of the triumphs of the mundane American stage. It moves its audience tremendously, it comes close to their experience or observation, it awakens their consciousness, and it may even rouse them to self-criticism. As a text it is, in many respects, the latest version of *Babbitt*. The subscribers of the Book of the Month Club, which has selected a play for the first time in its history, may put the book on their shelves as an authentic piece of American fiction along with the novels of Sinclair Lewis, Theodore Dreiser, and James Farrell. Whether it is actually the great play that many people believe it to be is another matter. I can only register a general doubt here. For all my enthusiasm, I would not place the play in the same class with, let us say, *A Streetcar Named Desire, The Glass Menagerie, Desire Under the Elms,* or even *The Iceman Cometh*. It is deficient in the poetry, the nuances, the wonder, and the unexpected insight of truly distinguished dramatic literature. Mr. Miller's insights are all expected ones; they are observations rather than discoveries.

In the last analysis, *Death of a Salesman* is still *drame bourgeoise* rather than high tragedy. Mr. Miller's story still possesses more qualities of demonstration by a sociologist than of transfiguration by a poet. The contrast of characters is rather schematic, and the moral obtrudes upon life instead of emerging with shimmering suggestiveness from the contradictions of human nature. Mr. Miller's depths are actually shallows, even if he navigates them superbly. Anyone who is familiar with *Death of a Salesman* and wants to arrive at a perspective, should not miss the March 5 issue of *The Nation* in which Mr. Joseph Wood Krutch, the most penetrating dramatic critic in America, sets down some provocative reservations. Qualifications are, however, less important from the immediate point of view than the fact that the American stage has *Death of a Salesman* to show for a year's effort and that Mr. Miller himself has surpassed his *All My Sons* in breadth and humanity.

If *Death of a Salesman* is a triumph of talent, Odets' *The Big Knife* is a failure of genius. Mr. Odets' case must be reserved, however, for the next issue for reasons of space, along with questions concerning other plays including John Golden's revival of Sidney Howard's *They Knew What They Wanted*.

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# *What About Old-Age Pensions?*

*Are they desirable?*
*Who benefits?*
*Who should pay?*

*By CAROL L. THOMPSON*

**The problem:** As the cost of living soars, the plight of the needy elderly becomes increasingly acute. The average monthly benefit check in 1947 was $35.92. Unions, industrialists, state and federal governments all have pension plans for the aged. The unorganized man who pays taxes and buys coal wants to know where the money is coming from.

IMAGINE for a minute that you are a coal miner. You have worked in the mines since you were nine years old. The odds of your living to a ripe old age are heavily against you. Your chance of surviving 30 years of mining is ten to one; your chance of escaping without permanent injury is only four to one. In spite of the odds, however, you have miraculously reached retirement age. In this Year of Grace, 1949, you will receive $100 per month for the rest of your life from the United Mine Workers of America. Now you can say, with Horace Ainscough, the first miner to receive a pension, "Thank God for the day when John L. Lewis was born."

Imagine, on the other hand, that you have no such private organization to support you. If you live in Georgia or Kentucky, you may apply for State aid of a little more than $16 per month. If you are covered by federal old-age insurance, you may receive payments of less than $30 monthly from that source.

All over the United States, thousands on thousands of Americans are receiving some sort of old-age pensions. For them, and for the children who share in their support, interest in the economic justification of pensions is nil. As people grow older, they become more and more interested in security; they want to live, and to live they must buy food. This primary interest in security is one of the driving factors behind present interest in pension plans. Other factors include industry's desire for greater efficiency and better employee morale, and the unions' push for greater power.

A rural population with a short life expectancy is little concerned with old-age security. Those who do not die young can be supported easily within the family group. But while families have become smaller, and cities have grown, life expectancy has increased. It is estimated that in the sixteenth and seventeenth centuries the expectancy of life at birth was not more than 21 to 26 years in some parts of Europe. In 1789, in Massachusetts, the estimated expectancy was 35 years. In 1855, in the United States, the average life span was only 40 years. Today, the expectation of life at birth is about 59 years. The percentage of elderly persons in our population has also increased. In 1870, persons of 65 years and over made up 3 per cent of the total population; in 1890, 3.7 per cent; in 1920, 4.7 per cent, and in 1930, 5.4 per cent. The absolute number of those who live to old age is also increasing. In 1920, there were around five million persons of 65 or more years; in 1930 there were over six and a half million. It is estimated that by 1975 those 65 and older will constitute 13 per cent of the total population.

The declining birth rate has automatically increased the proportion of aged persons in the population; up to this time, control of "degenerative" diseases has been less important but will add to the problem as time goes by.

It is difficult to arrive at an accurate figure of dependent aged in the United States. Squier estimated in 1912 that 1,250,000 persons over 65 were dependent on public or



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private charity. Murray Latimer estimated that in 1930 at least 1,500,000 people were dependent on others. In 1935, the Committee on Economic Security estimated that at least half of the 7,500,000 persons over 65 in the United States were dependent on others, including about 1,000,000 relying on public support.

Trade-unions in the United States have devoted more and more attention to the care of the aged and disabled. British trade-unions, which for the most part developed as fraternal or benevolent societies, are said to pay out today almost 56 per cent of their total receipts in benefits to members. In contrast, American unions were estimated in 1945 to be only paying approximately eight per cent of their receipts in benefits to members.

American unions began the development of benefit plans in 1831, when a New York City printers' local paid the first unemployment benefits in the country. In 1869, management entered the field through the first profit-sharing plan in the country, set up by the Brewster Carriage Company of Bridgeport. At about the same time, the first employee mutual benefit association was established, and in 1880, the federal government enacted the first workmen's compensation act covering federal employees. Union and management developed joint plans in 1921, with joint unemployment insurance programs in the clothing industry.

Pension plans were set up within the broader social security programs established by labor. By 1928, 12 international unions had their own pension plans, under which 11,306 members or their widows received $3,350,-995 in that year. The average amount per beneficiary came to $296. Union pension funds usually come out of membership dues, sometimes supplemented by special assessments. But only large and prosperous unions were able to adopt such plans.

By 1928, it was estimated that about four million workers were covered by industrial pension plans. Here again, it was almost always the larger firms which arranged to cover their elderly workers. Before 1930, it was estimated that 72 per cent of all concerns with formal plans employed more than 1,000 persons and two-thirds of the persons covered were employed by public service corporations. There was no legal right to a pension in any corporation; the worker could be discharged or the firm dissolved. The employee's right to strike was curtailed and other minor offenses might lead to the liquidation of his pension right. In the hands of management, the pension plans were not always genuinely acceptable to the rank and file of labor.

By 1929, a number of states and municipalities had pension funds for some classes of employees; 21 states, the District of Columbia, and six large cities had teachers' retirement funds and more than 17,000 teachers were receiving pensions. (Many of these funds proved defective, however). In six states, most state employees were covered by retirement systems at that time. And after 1920, the federal employees in all classified branches in the civil service were protected in their old age by a compulsory, contributory insurance system.

## SOCIAL SECURITY

Most private old-age insurance plans failed to meet the depression in 1933. Pension funds were frequently liquidated when firms went bankrupt; there was no uniformity; the elderly unemployed went on relief and relied on private charity. In 1935, the advocates of a more uniform and effective legislation succeeded in having old-age benefits included in the Social Security Act. Title I of the act provided Grants to States for Old Age Assistance. Section 3(a) reads as follows:

> From the sums appropriated therefore, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is 65 years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance or both, and for no other purpose; Provided, that the State plan, in

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order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

The State act must, according to Section 2a:

(1) provide that it shall be in effect in all political subdivisions of the State and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration. . . . as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under the plan, one-half of the net amount so collected shall be promptly paid to the United States. . . . .

2b:

The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

(1) an old age requirement of more than sixty-five years except that the plan may impose, effective until January 1, 1940, an age requirement of as much as 70 years; or

(2) Any residence requirement which excludes any resident of the state who has resided therein five years during the nine years immediately preceeding the application . . . . and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States.

All state legislation, and the quoted Title I of the Social Security Act, provided for non-contributory pensions, or, more accurately, relief assistance. Contributory pensions had been provided for in the Railroad Employees Retirement Act (1934), the first federal legislation dealing with this type of insurance.

This system was contributory, self-sustaining, and of the pay-as-you-go variety. The employee's contribution was two per cent of his wages; the employer's, four per cent. In the event of inadequate revenues, these taxes could be increased by the Railway Retirement Board. No large reserve was required and no government aid added. All contributions were to be paid into a central pool.

The Railway Pension Act was eventually declared unconstitutional by the Supreme Court, in a five to four decision (*Railroad Retirement Board et al. v. Alton Railroad Co. et al.*, 1935).

According to the majority opinion, there was no obvious relation between interstate transportation on the one hand and pensions and contented employees on the other, sufficient to justify federal legislation. "Is it not apparent," asked the majority, "that they [pensions] are really and essentially related solely to the social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of Congressional power."

A substitute pension system was subsequently established and approved by Congress in August, 1935. The new act created a retirement pension system based on the power to appropriate funds, and the Carriers Taxing Act raised pension revenues based on the power to levy excise taxes. (The Taxing Act was also declared unconstitutional, and a successful retirement plan covering approximately 1,500,000 employees was not worked out until 1937.)

Title II of the Social Security Act of 1935 extended contributory old age pensions to around 37 million workers, about three-fifths of those normally employed. It avoided the legal pitfalls of the Railroad Retirement Act. The most important exceptions are the self-employed, owners and operators, agricultural labor, domestic servants, casual workers, government employees of all sorts, employees of nonprofit institutions, those employed on ships.

Professor Edwin E. Witte, in the *Journal of Political Economy* (Vol. 45, 1937) gave an excellent summary of the pertinent provisions of this section:

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> To be eligible for this monthly benefit the applicant must have worked for wages for at least five years subsequent to December 31, 1936, and have earned after this date a minimum total of $2,000 in employments other than those specifically excluded. . . . . If the total wages earned are between $2,000 and $3,000, the monthly benefit rate is one-half of one per cent of the total wages. If the total wages exceed $3,000, the monthly benefit rate is a sum arrived at by adding together one-half of one per cent of the first $3,000 and one-twelfth of one per cent of the excess above $3,000 up to $45,000 and one-twenty-fourth of one per cent of the excess above $45,000. The minimum monthly retirement allowance is $10, the maximum $85. . . . .
>
> If eligible persons die prior to becoming 65 years of age, a lump sum benefit is paid to their estates equal to 3.5 of their total wages subsequent to December 31, 1936. The same benefit is paid to employees who on obtaining age 65 cannot establish that they earned at least $2,000 subsequent to December 31, 1936, or were not employed for at least five days in each of five years after this date. If employees die after retirement, but before they have drawn at least 3.5 per cent of their total wages in monthly benefit payments, their estate is entitled to the difference between this amount and the payments they received during their lifetime.

In the bare outline this is the story of federal old-age assistance and old age insurance. In 1939 the Social Security Act was amended and a Bureau of Old-Age and Survivors Insurance was established to administer old-age benefits. Survivors' benefits to widows, widows and children, children or parents of deceased workers were allowed; a trust fund was established, and the imposition of payroll taxes and machinery for their collection was provided under the Federal Insurance Contributions Act.

Under the terms of the act, a worker with an average monthly earning record of $100 would receive around $27.50 per month on retirement; those with higher average earnings would receive more, but proportionately less of their average earnings. The old-age insurance program was designed only to provide subsistence at retirement; those interested in old-age pensions regard it only as a point of departure.

Prior to World War II, private industry and organized labor made some headway in private pension plans, supplementing the Social Security Act. Employees' benefits were at no time considered subjects for collective bargaining and national unions busied themselves with setting up and maintaining their own plans for their members.

During World War II and afterwards, however, several factors altered the outlook on pensions. First of all, with wages frozen, unions began to push for employer-paid pension funds. Second, with thousands of concerns working on cost-plus contracts and with pension fund reserves deductible from high war-time corporation taxes, industry was not at all adverse to the establishment of industry-financed pension funds. Third, with the cost of living rising constantly, the pensioners on federal old-age benefits and on old-age relief were hardly able to exist on their government money. Fourth, the N.L.R.B. decision in the Inland Steel case (April 12, 1948) changed the pension problem. In this instance, the union had objected to the company's provision for automatic retirement at 65 years of age. The company rejected the union's demand to bargain collectively about the pension system. When the case was referred to the N.L.R.B., the Board ruled that pensions are actually included in the term "wages," and that age and other terms of retirement are "conditions of employment." The Board concluded that "under the Labor Management Relations Act [the Taft-Hartley Act] employers must bargain with their employees on pensions or retirement plans if the employees request it."[1]

## INCREASED COVERAGE

All four factors contributed to the amazing increase in the number of workers now covered by some form of health, welfare, and/or retirement benefit plans According to the United States Department of Labor (Bureau of Labor Statistics), by the middle of 1948, more than 3 million workers were covered by some form of benefit plan under collective bargaining agreements. This was more than twice the number covered in early 1947. Of the plans studied, 45 per cent provided retirement plus other benefits; 11 per cent provided retirement only, and 45 per cent provided some benefits but not retirement pensions.

Under collective bargaining agreements almost 100 national and international un-

[1]See *"Private Pension Plans,"* Forum, July, 1948.

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ions had within their jurisdictions some form of health, welfare, or retirement benefit plans. Many industries had also instituted retirement programs. Of 15,636 manufacturing plants studied, 47 per cent had insurance or pension plans for theiir employees.

There are four types of pension plans now in operation. (1) Plans administered by the union only. In all such plans, beneficiaries must be union members in good standing. (2) Plans administered jointly by the union and the employer. (3) Plans administered by the union, the employer, and a neutral third party. (4) Plans administered entirely by an insurance company.

Under collective bargaining, most plans today are being financed entirely by the employer. When the union administers pension plans alone, it operates within the legal limitations laid down in the Taft-Hartley Act of 1947. The trust fund must be maintained for the sole benefit of the employees, their families, and dependents; payments must be limited in purpose and kept in a separate trust fund; except for plans established before Januray 1, 1946, pension plans must be *written* with provision for bipartisan administration and a neutral to break deadlocks.

The American taxpayer and consumer, the union member and the representatives of management are all interested in the problem of old age pensions. The pensioners themselves are interested almost exclusively in the question: "How Much?" And for them, of course, the answer is all that the traffic will bear. According to the monthly newspaper, the *National Pension Advocate* (published in California), there were in 1947 more than 2,250,000 persons receiving old age benefits, and their average monthly payments came to $35.92 (this figure included federal and state aid). With such eye-catching slogans as "Will you work like 60 for $60?" and "Old folks need $75 to stay alive," the National Pension Committee, the organization behind the *Advocate,* drives for funds and for members. To them, the meager state and federal payments constitute "A National Disgrace." The advantages of pensioners' organization are emphasized in statements such as this:

"You could get the same amount of pension that your Senators and Congressmen vote for themselves if all the pensioners in the nation were organized for political action."

In the monthly paper, started in 1942, there seems to be no concern for the taxpayer of the present or future, and little interest in where the money's coming from. A pressure group made up of people over 65 can perhaps be excused if they overlook such questions as who will bear the pension load in 1980.

Although there is no indication that the pensioners' organization would not welcome labor-management private pensions, such arrangements are no longer of interest to the retired elderly. Their concern with their own problems is understandable. By chart, map, and graph, the *National Pension Advocate* stresses the inadequacy of state aid in most states. The lowest monthly aid (in 1947) was paid in Georgia and in Kentucky ($16.34 and $16.38 respectively) and the highest in Colorado ($69).

An important testimonial to the strength of organized pensioners' movements is the $75 monthly aid now in effect in California, home of the *Advocate* and of many retirement movements. Here, the federal government now contributes its maximum $30 payment, and California comes through with a magnificent $45 monthly to the aged who meet certain qualifications. Generous property allowances completely remove the stigma of "relief" or "charity" payments.

Because the National Pension Committee is interested almost exclusively in "how much," it advocates non-contributory pensions rather than old-age insurance. According to its calculations, there were 40,000,000 workers paying old-age insurance taxes in 1946. But only 600,000 elderly out of an eligible 1,425,000 have retired; the rest cannot afford to retire on what they would get. In 1970 (and not before), the average retired worker will probably receive $31.34 monthly. For this reason, the Committee is concentrating on straight government pension payments.

But although the pensioners are not concerned with who will pay the bill, the labor

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unions of the country certainly are! Most unions are well aware that their members are taxpayers, and they are none too anxious to see the federal pension system get out of hand. Instead, they advocate a kind of soak-the-rich-system—the employer to foot the bill for labor's pensions. Under collective bargaining, the nation's miners (450,000), clothing and textile workers (875,000), steel workers (138,000), electrical workers (138,000) and transport workers (150,000) are now covered by benefit plans paid for *in toto* by industry. Most contracts are negotiated on a local or regional basis, many under uniform national plans. The United Mine Workers, the International Ladies' Garment Workers' Union, and the Amalgamated Clothing Workers bargain for the national union, the industry, or a large area.

The Kaiser-Frazer contract effective January 1, 1947, provides a good example of the thinking of the United Automobile Workers. According to its terms, the company contributes to the benefit fund five cents per hour per employee on a flat rate basis. This was the first major benefit plan sponsored by the U.A.W. The United Steel workers initiated their plans in two contracts signed in May of the same year.

## JOHN L. LEWIS

The far more controversial plan sponsored by John L. Lewis for the mine workers is based on logic that goes further afield. According to the U.M.W. contract, the mine owners pay into a union fund a flat royalty of 20 cents on each ton of coal mined "for use or for sale." The resulting welfare fund amounts to about $100 million yearly. After 20 years in the mines, a miner may now retire on $100 per month after he reaches the age of 62. Sickness and accident payments are also made to the miner.

John L. Lewis has explained the 20-cent private tax as follows:

"There's a definite principle involved of making the commodity used generally by the public or special interests, bear completely its own cost of production. . . . . We hold that the care of the human element in an industry should inherently run with the cost of production. A man is just as essential as any other item. . . . ."

Everyone grants that coal mining is dirty, dangerous, and literally back-breaking work. Every year more than 65,000 men are injured, and their average time out of work because of injuries is 40 days. Too many mine owners have ignored safety requirements and refused the responsibility for injured and killed miners.

The welfare fund, according to Lewis, will increase efficiency in the mines, because elderly and incompetent miners will welcome the opportunity to retire. Younger men will find openings in the mines and will find them more attractive because of the benefit fund.

No miner contributes to the fund. Nor do miners on the whole carry accident or life insurance. Miners must pay nearly three times the usual insurance rate. A *Saturday Evening Post* writer recently made a survey and could not find a single insurance company which would sell miners insurance for occupational accidents at any price! The only insurance carried by most miners is burial insurance.

Granted that the coal miner is entitled to some small measure of security in his hazardous job, the question is simply: who should pay? John L. Lewis believes that the American public *which uses the coal* should pay, just as it pays indirectly for machinery depreciation.

"We hold that the proper care of the human element in the mining industry or any other major industry should properly be charged to the cost of production and not assessed against the taxpayers as a whole . . . . . The industry should do it and the commodity should bear the cost of it . . . . . This is a chance for labor and management to take care of these problems."

Here Lewis highlights his long-standing dislike of government regulation. Other powerful unions have negotiated welfare plans because the federal social security plan is admittedly inadequate. Lewis glories in its inadequacy. The 20-cent royalty will keep down the size of the federal bureaucracy, and of the federal government. It will help eliminate one function of the monster—Service State. That the price of coal is inflated by the 20-cent royalty is a matter of indifference to the U.M.W. leader. When

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the 20-cent tax went on, coal prices were raised 50 to 75 cents. Commenting on this rise, Lewis noted that the owners were undoubtedly anticipating further increases in cost. The problem of the coal consumer is simply irrelevant, just as, to most coal consumers, the problem faced by the miner is a matter of indifference.

Still another advantage of the union-administered welfare fund is that it strengthens the United Mine Workers. To the union leadership, this is extremely important. It is unlikely that coal miners will show active discontent with an organization that adds sickness, accident, and pension benefits to its long list of achievements. John L. Lewis is far from universally popular but his tactics have "paid off" and the miners all know it. The recent "stoppage" is a testimonial to his power.

The creation of pension funds out of royalties on the product has attracted the attention of other unions. It is reliably reported that even the Great Lakes ship workers are considering negotiating for a royalty per ton on the freight handled by them.

## THE OPPOSITION

While the royalty concept gathers momentum, opposition forces are becoming more and more alarmed. John L. Lewis' original demand for a royalty got an incredulous reception from industry as a whole. Articles were written on the aim "behind" this preposterous demand. Observers conceded that the royalty demand was a "bargaining point" only. Now more serious attention is being given to the problem. According to Social Security Administration figures, there are 7,000 miners eligible for retirement. By 1980 it is possible that this number may reach 110,000. Who is going to pay for their retirement? Economists point out that royalties create no additional funds. Where these taxes are charged, there is less available for wages, plant expansion, and the creation of new jobs. The royalty system is obviously not conducive to restraint today, since the charge is so easily tacked on to the price of the commodity. Neither the employer nor the employee seems to foot the bill in the short run.

The royalty system is inflationary. This cannot be denied. When the system is confined to coal, the miners at least stand to gain more than they lose. But once the system gains general accetance, all consumers will be caught once again in the web of rising prices.

The royalty system, in connection with a union-administered welfare fund, is an effective substitute for closed union shops. With the gravy limited to those who remain "in good standing," it is unlikely indeed that workers will try to remain outside their various unions. Graft and corruption may of course creep into the union administration, but even if the funds are carefully supervised and honestly administered, they become a potent union weapon.

The industrialist and the consumer find themselves on the same side of this controversy. From industry's point of view, collective bargaining over pension and other benefit funds is a violation of their managerial function. The arguments against bargaining for benefit plans have been ably summarized by Walter J. Couper in "Collective Bargaining on Pensions and Other Employee Benefit Plans" published by the American Management Association:

> 1. Compulsory collective bargaining on benefit plans is unnecessary . . . . because managements realize the importance of these programs and coverage is being very rapidly extended . . . .
>
> 2. It is harmful . . . . because it has already deterred many managements from initiating improvements in their present plans.
>
> 3. The requirement to bargain would be difficult to enforce because the law does not require that the parties reach agreement. It simply requires that they bargain "in good faith."
>
> 4. There are technical complexities . . . .
>
> 5. To have to bargain about benefit plans may overburden the collective bargaining process . . . .

The author also points to the unsound economic theory behind some union demands, notably those dealing with flat pensions unrelated to earnings and length of service. Also, ". . . . benefit programs may be directed toward the maintenance of the union as an institution rather than toward the economic security of union members."

What alternative has management? First of all, according to W. H. Winans, of the Union Carbide and Carbon Corporation, industry must recognize the importance of

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well-planned pension programs. "I think that we must approach this problem realizing that we are dealing with a rather fundamental human need." Secondly, as Walter Couper points out, ". . . . management should support the liberalization and extension of social security. Management's record in this field is not distinguished. As you [management] have been told over the years . . . . if you do not take the leadership and assist in formulating the program, the leadership will pass into other hands and liberalization and extension will come despite management inaction or resistance." Third, "Review and plan whatever improvement is necessary to your own benefit plan . . . . do not surrender the initiative. . . . ."

For industrialists, then, the prevailing attitude on pension and other benefit plans is this: (1) For efficiency and for morale some sort of retirement plan is important. (2) Industry-sponsored and industry-run plans are an important addition to federal and state pensions and old-age insurance. (3) Union plans worked out through collective bargaining are unfair and dangerous; royalties to raise funds are inflationary and may quickly get out of hand on a national scale. All union plans seek to glorify the union at the expense of the industry and, in the last analysis, at the expense of the individual union member. (4) Improvements are in order for federal old-age insurance and some method of raising the old-age insurance payments must be worked out.

With this point the average consumer is in complete accord. Unorganized labor has no desire to foot the bill for the retirement of their organized brethren. Today, however, a combination of high prices and high taxes make saving for old age almost impossible. In the higher income brackets, it is difficult to put aside a definite sum every year for investment with an eye to retirement. Lower interest rates mean that the sum must be greater, at a time when high prices and taxes preclude this possibility. If this is true for the higher income groups, the low and middle classes face a more serious dilemma. They cannot save at all. If they do not work for large and prosperous corporations with beneficent pension plans, if they belong to no national union, their only hope is in improved old-age insurance plans. Under such plans, every worker contributes his share to the fund and every industry pays its part of the cost of depreciating manpower. If these payments are insufficient, additional funds can be taken from general tax proceeds. It is in the interest of every citizen, so runs this argument, to provide adequate care for the aged, and general taxes are a fair way to accept the responsibility.

Many criticisms can be levelled at the federal old-age insurance and benefit plans. This does not alter their validity so far as the unorganized consumer is concerned. In this instance he must fight terrific pressure from powerful national unions, but in this instance, remarkably enough, he has the backing of much of industry and of the pensioners themselves.

The old-fashioned attitude that pensions were a form of charity and that emphasis on old-age security was somehow "un-American" has finally yielded to a more realistic attitude. Probably no subject in the world has a more universal appeal than old-age pensions. For this reason, pressure groups are particularly interested in the subject. We shall all eventually become "superannuated" if we live long enough. Whether we anticipate old age in the ranks of organized labor, or industrial management, or the great unorganized "little people," determines our attidue toward old-age pensions.

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# The Buzz Plane

May my Irish grandfather from Tyrrells Pass
Grant me the grace to make proper curse on you, accursed!
You who on a holy Sabbath or a fair holiday
Buzz and circle above my head like the progeny
Of the miscegenation of a buzzard and a bumble-bee.

The great bombers I hate with a lofty hatred,
But you, Harpy, with your unspeakable clatter,
Your sputtering, stuttering, and you know what,
Queering both my music and my silence,
I despise as the perfection of pure nuisance.

Where is the wind-wailed island of mist and seagulls,
Where is the mountain crag mounting to eagles,
Where is the saint's cell, the hermit's citadel,
The nine bean rows and the hive for the honey bee,
Safe from your snoopings, swoopings, and defilements?

May your wife by a gad, a goad, and a gadfly.
May all your bawling, brawling brats never leave you peace.
May you grow bald and birds defile your head.
May your flights be tailspins and your landings crashes.
Fie, fie, fie on you! And the word has power!

ROBERT FRANCIS



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# THE CLOSED SHOP

THE closed shop is one of the most hotly contended issues of modern labor legislation. It was banned by the Taft-Hartley Law, and labor and administrative spokesmen have loudly demanded its repeal.

Those in favor of the closed shop-ban argue that no man should be forced to join a union in order to get a job and thus be deprived of his "freedom to work." Labor contends that the closed shop is necessary to union security, as the open shop was used by employers to "break" unions, and that it should be the subject of collective bargaining.

On January 3, the United States Supreme Court upheld the right of North Carolina and Nebraska to prohibit employment discrimination against non-union members. In the decision, which FORUM presents below, may be seen the issue now before Congress.

* * * *

## SUPREME COURT OPINION

Under employment practices in the United States, employers have sometimes limited work opportunities to members of unions, sometimes to non-union members, and at other times have employed and kept their workers without regard to whether they were or were not members of a union. Employers are commanded to follow this latter employment practice in the states of North Carolina and Nebraska.

A North Carolina statute and a Nebraska constitutonal amendment provide that no person in those states be denied an opportunity to obtain or retain employment because he is or is not a member of a labor organization. To enforce this policy North Carolina and Nebraska employers are also forbidden to enter into contracts or agreements obligating themselves to exclude persons from employment because they are or are not labor union members.

These state laws were given timely challenge in North Carolina and Nebraska courts on the ground that in so far as they attempt to protect non-union members from discrimination, the laws are in violation of rights guaranteed employers, unions, and their members by the United States Constitution.

The state laws were challenged as violations of the right of freedom of speech, assembly, and of petition guaranteed unions and their members by "the First Amendment and protected against invasion by the state under the Fourteenth Amendment." It was further contended that the state laws impaired the obligations of existing contracts in violation of Article 1, Section 10, of the United States Constitution and deprived the appellant unions and employers of equal protection and due process of law guaranteed against state invasion by the Fourteenth Amendment.

All of these contentions were rejected by the state supreme courts and the cases are here on appeal under Section 237 of the Judicial Code, 28 U. S. C. Section 344. The substantial identity of the questions raised in the two cases prompted us to set them for argument together and for the same reason we now consider the cases in a single opinion.

First. It is contended that these state laws abridge the freedom of speech and the opportunities of unions and their members "peaceably to assemble and to petition the Government for a redress of grievances." Under the state policy adopted by these laws, employers must, other considerations being equal, give



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equal opportunities for remunerative work to union and non-union members without discrimination against either.

In order to achieve this objective of equal opportunity for the two groups, employers are forbidden to make contracts which would obligate them to hire or keep none but union members. Nothing in the language of the laws indicates a purpose to prohibit speech, assembly, or petition. Precisely what these state laws do is to forbid employers acting alone or in concert with labor organizations deliberately to restrict employment to none but union members.

It is difficult to see how enforcement of this state policy could infringe the freedom of speech of anyone, or deny to anyone the right to assemble or to petition for a redress of grievances. And appellants do not contend that the laws expressly forbid the full exercise of those rights by unions or union members.

Their contention is that these state laws indirectly infringe their constitutional rights of speech, assembly, and petition. While the basis of this contention is not entirely clear, it seems to rest on this line of reasoning:

The rights of unions and union members to demand that no non-union members work along with union members is "indispensable to the rights of self-organization and the association of workers into unions"; without a right of union members to refuse to work with non-members, there are "no means of eliminating the competition of the non-union worker;" since, the reasoning continues, a closed shop is indispensable to achievement of sufficient union membership to put unions and employers on a full equality for collective bargaining, a closed shop is consequently, an indispensable concomitant of "the right of employees to assemble into and associate together through labor organizations . . . ."

Justification for such an expansive construction of the right to speak, assemble, and petition is then rested in part on appellant's assertion that the right of a non-unionist to work is in no way equivalent to or the parallel of the right to work as a union member; that there exists no constitutional right to work as a non-unionist on the one hand while the right to maintain employment free from discrimination because of union membership is constitutionally protected (Wallace Corporation v. Labor Board, 323 U. S. 248).

We deem it unnecessary to elaborate the numerous reasons for our rejection of this contention of appellants. Nor need we appraise or analyze with particularity the rather startling ideas suggested to support some of the premises on which appellants' conclusions rest. There cannot be wrung from a constitutional right of workers to assemble to discuss improvement of their own working standards, a further constitutional right to drive from remunerative employment all other persons who will not or cannot participate in union assemblies.

## THE CONSTITUTION

The constitutional right of workers to assemble to discuss and formulate plans for furthering their own self interest in jobs cannot be construed as a constitutional guarantee that none shall get and hold these jobs except those who will join in the assembly or will agree to abide by the assembly's plans. For where conduct affects the interests of other individuals and the general public, the legality of that conduct must be measured by whether the conduct conforms to valid law, even though the conduct engaged in is pursuant to plans of an assembly.

Second. There is a suggestion though not elaborated in briefs that these State laws conflict with Article I, Section 80, of the United States Constitution, insofar as they impair the obligation of contracts made prior to their enactment. That this contention is without merit is now too clearly established to require discussion. (See Home Bldg. and Loan Assn. v. Blasdell, 290 U. S. 398, 436-439, and cases there cited. And also Veix v. Sixth Ward Bldg. and Loan Assn., 310 U. S. 32, 38; East New York Savings Bank v. Hahn, 326 U. S. 230, 232.)

Third. It is contended that the North Carolina and Nebraska laws deny unions

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and their members equal protection of the laws and thus offend the equal protection clause of the Fourteenth Amendment. Because the outlawed contracts are a useful incentive to the growth of union membership, it is said that these laws weaken the bargaining power of unions and correspondingly strengthen the power of employers. This may be true. But there are other matters to be considered.

The state laws also make it impossible for an employer to make contracts with company unions which obligate the employer to refuse jobs to union members. In this respect, these state laws protect the employment opportunities of members of independent unions. (See Wallace Corporation v. Labor Board, supra). This circumstance alone, without regard to others that need not be mentioned, is sufficient to support the state laws against a charge that they deny equal protection to unions as against employers and non-union workers.

It is also argued that the state laws do not provide protection for union members equal to that provided for non-union members. But in identical language these state laws forbid employers to discriminate against union and non-union members. Nebraska and North Carolina thus command equal employment opportunities for both groups of workers.

It is precisely because these state laws command equal opportunities for both groups that appellants argue that the constitutionally protected rights of assembly and due process have been violated. For the constitutional protections surrounding these rights are relied on by appellants to support a contention that the federal Constitution guarantees greater employment rights to union members than to non-union members.

This claim of appellants is itself a refutation of the contention that the Nebraska and North Carolina laws fail to afford protection to union members equal to the protection afforded non-union workers.

Fourth. It is contended that these state laws deprive appellants of their liberty without due process of law in violation of the Fourteenth Amendment. Appellants argue that the laws are specifically designed to deprive all persons within the two states of "liberty;" (1) to refuse to hire or retain any person in employment because he is or is not a union member; and (2) to make a contract or agreement to engage in such employment discrimination against union or non-union members.

Much of appellants' arguments here seek to establish that due process of law is denied employees and union men by that part of these state laws that forbids them to make contracts with the employer obligating him to refuse to hire or retain non-union workers. But that part of these laws does no more than provide a method to aid enforcement of the heart of the laws, namely, their command that employers must not discriminate against either union or non-union members because they are such.

If the states have constitutional power to ban such discrimination by law, they also have power to ban contracts which would bring about the prohibited discrimination. (Chicago B. and Q. R. Co. v. McGuire, 219 U. S. 549, 570, 571.)

Many cases are cited by appellants in which this court has said that in some instances the due process clause protects the liberty of persons to make contracts. But none of these cases, even those according the broadest constitutional protection to the making of contracts, ever went so far as to indicate that the due process clause bars a state from prohibiting contracts to engage in conduct banned by a valid state law.

So here, if the provisions in the state laws against employer discrimination are valid, it follows that the contract prohibition also is valid. (Bayside Fish Flour Co. v. Gentry, 297 U. S. 422, 427. And see Sage v. Hampe, 235 U. S. 99, 104-105.)

We, therefore, turn to the decisive question under the due process contention which is: Does the due process clause forbid a state to pass laws clearly designed to safeguard the opportunity of non-union members to get and hold jobs, free from discrimination against them because they are non-union workers?

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There was a period in which labor union members who wanted to get and hold jobs were the victims of widespread employer discrimination practices. Contracts between employers and their employees were used by employers to accomplish this anti-union employment discrimination. Before hiring workers, employers required them to sign agreements stating that the workers were not and would not become labor union members.

Such anti-union practices were so obnoxious to workers that they gave these required agreements the name of "yellow dog contracts." This hostility of workers also prompted passage of state and federal laws to ban employer discrimination against union members and to outlaw yellow dog contracts.

In 1907 this court in Adair v. United States, 208 U. S. 161, considered the federal law which prohibited discrimination against union workers. Adair, an agent of the Louisville and Nashville Railroad Company, had been indicted and convicted for having discharged Coppage, an employee of the railroad, because Coppage was a member of the Order of Locomotive Firemen.

This court there held, over the dissents of Justices McKenna and Holmes, that the railroad, because of the due process clause of the Fifth Amendment, had a constitutional right to discriminate against union members and could, therefore, do so through use of yellow dog contracts. The chief reliance for this holding was Lochner v. New York, 198 U. S. 45, which had invalidated a New York law prescribing maximum hours for work in bakeries.

This court had found support for its Lochner holding in what had been said in Allgeyer v. Louisiana, 165 U. S. 578, a case on which appellants here strongly rely. There were strong dissents in the Adair and Lochner cases.

In 1914 this court reaffirmed the principles of the Adair case in Coppage v. Kansas, 236 U. S. 1 again over strong dissents, and held that a Kansas City statute outlawing yellow dog contracts denied employers and employees a liberty to fix terms of employment. For this reason the law was held invalid under the due process clause.

The Allgeyer-Lochner-Coppage Constitutional doctrine was for some years followed by this court. It was used to strike down laws fixing maximum wages and minimum hours in employment, laws fixing prices, and laws regulating business activities. (See cases cited in Olsen v. Nebraska, 313 U. S. 236, 244-246, and Osborn v. Ozlin, 310 U. S. 53, 66-67.) And the same constitutional philosophy was faithfully adhered to in Adams v. Tanner, 244 U. S. 590, a case strongly pressed upon us by appellants.

In Adams v. Tanner, this court with four justices dissenting struck down a state law absolutely prohibiting maintenance of private employment agencies. The majority found that such businesses were highly beneficial to the public and upon this conclusion held that the state was without power to proscribe them. Our holding and opinion in Olson v. Nebraska, supra, clearly undermined Adams v. Tanner.

Appellants also rely heavily on certain language used in this court's opinion in Wolff Packing Co. v. Court of Industrial Relations, 262 U. S. 522. In that case the court invalidated a state law which in part provided a method for state agency to fix wages and hours. [(6) see Wolff Co. v. Industrial Court, 267 U. S. 522, 565.]

In invalidating this part of the state act, this court construed the due process clause as forbidding legislation to fix hours and wages, or to fix prices of products. The court also relied on a distinction between businesses according to whether they were or were not "clothed with a public interest." This latter distinction was rejected in Nebbia v. New York, 291, U. S. 502.

That the due process clause does not ban legislative power to fix prices, wages, and hours as was assumed in the Wolff case, was settled as to price fixing in the Nebbia and Olsen cases. That wages and hours can be fixed by law is no longer doubted since West Coast Hotel Co. v. Parrish, 300 U. S. 379; United States v.

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Darby, 312 U. S. 100, 125; Phelps Dodge Corp. v. Labor Board, 313 U. S. 177, 187.

This court, beginning at least as early as 1934, when the Nebbia case was decided, has steadily rejected the due process philosophy enunciated in the Adair-Coppage line of cases.

In doing so, it has consciously returned closer and closer to the earlier constitutional principle that states have power to legislate against what are found to be injurious practices in their internal commercial and business affairs, so long as their laws do not run afoul of some specific federal constitutional prohibition, or of some valid federal law. (See Nebbia v. United States, supra at 523-524, and West Coast Hotel Co. v. Parrish, supra at 392-395, and cases cited.)

Under this constitutional doctrine the due process clause is no longer to be so broadly construed that the Congress and state legislatures are put in a strait jacket when they attempt to suppress business and industrial conditions which they regard as offensive to the public welfare.

Appellants now ask to return, at least in part, to the due process philosophy that has been deliberately discarded. Claiming that the federal Constitution itself affords protection for union members against discrimination, they nevertheless assert that the same Constitution forbids a state from providing the same protection for non-union members.

Just as we have held that the due process clause erects no obstacle to block legislative protection of union members, we now hold that legislative protection can be afforded non-union workers.

**FOOTNOTES**

1. Section 2 of Chapter 328 of the North Carolina session laws, enacted in 1947, reads as follows:

"Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina."

Nebraska in 1946 adopted a constitutional amendment, Sec. 13 of which reads as follows:

"No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labor organization."

2. Shops that refuse to employ any but union members are sometimes designated as "closed shops," sometimes as "union shops." Contracts which obligate an employer to employ none but union members are sometimes designated as union security agreements, closed shop contracts, or union shop contracts.

There is also much dispute as to the exact meaning of the term "open shop." See Encyclopedia of Social Sciences, Vol. 3 (1930), pp. 568-569. There is such an important difference in emphasis between these different labels that we think it better to avoid use of any of them in this opinion.

3. The Nebraska constitutional amendment was challenged in an action for equitable relief and for a declaratory judgment. A substantial basis of the complaint was that employers had refused to comply with the request of unions to discharge certain employees who had failed to retain union membership.

In North Carolina, criminal proceedings were instituted against the appellants charging that an agreement made unlawful by the statute had been entered into by the appellant employer and the other appellants, who are officers and agents of labor unions affiliated with the American Federation of Labor.

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4. State v. Whitaker, 228 N. C. 352, 45 S. E. 2d 860; Lincoln Federal Labor Union No. 19129 v. Northwestern Iron & Metal Co., 149 Neb. 507, 31 N. W. 2d 477. See also American Federation of Labor v. American Sash & Door Co., 67, Ariz. 20, 189 P. 2d 912. An appeal in this latter case was also argued along with the two cases considered in this opinion. We have treated the Arizona case in a separate opinion. Because the challenged Arizona amendment presents a question not raised in the Nebraska or North Carolina laws.

5. This contention rests on the premise that the Fourteenth Amendment makes the prohibitions and guarantees of the First Amendment applicable to state action. See West Virginia v. Barnette, 319 U. S. 624, 639. The pertinent language of the First Amendment is "Congress shall make no law . . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

6. Other parts of the state statute related to matters other than wages, prices, and the making of contracts of employment. Considerations involved in the constitutional validity of those other parts of the statute are not relevant here.

Vermont youngsters have been collecting 50-cent bounties on two sets of ears from each hedgehog they kill. The scheme is to fashion the extra ears from the joint of the forepaws.—*New York Times*

The "haylift" demonstrated the difference between Russia and America: here cattle are treated like people.—*Pathfinder*

A missionary was preaching on a remote Pacific island when he was captured by a skeptical cannibal chief. To his astonishment, he was not eaten, but was allowed to go free, on condition that he carry a small sealed packet to a neighboring mountain chief.

So grateful was the missionary that when he encountered a detachment of English sailors he refused to accompany them to safer territory. He vowed that he would deliver the sealed packet as promised.

But the commander of the English ship asked to see the packet and opened it. It contained some fragrant herbs, together with this brief message: "The bearer will be delicious with these."—*Wall Street Journal*

On a recent dismal day Johnny, aged 6, and his mother were driving to town. He kept scrambling around, peering from the side window, from the back window, until his mother asked: "Johnny, what on earth are you doing?"

"Smiling," said Johnny.

"Well, couldn't you smile sitting down?" asked his mother.

"Then the people couldn't see," said Johnny.

His mother was mystified.

"I'm smiling at people who aren't in cars," he explained. "Because it's such a bad day I thought it might make them feel better."—*Cleveland Plain-Dealer*

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# CONGRESS DEBATES: Cloture

WHEN the freshman Senator from Minnesota, Hubert Humphrey, nailed a strong civil rights plank in the Democratic Party platform at Philadelphia in July, 1948, many Southern Democrats bolted the Convention. Although President Truman received 304 electoral votes and Dixiecrat Strom Thurmond but 38, the Dixiecrats have been "biding their time."

True to his campaign promises, Mr. Truman asked the Eighty-first Congress for the immediate passage of legislation barring discrimination and racial segregation in employment and the armed services, and anti-lynching and anti-poll tax statutes.

As the Southerners wheeled their artillery into position for the anticipated filibuster, Senate Majority Leader Scott W. Lucas, of Illinois, made a motion to take up a resolution to amend Senate Rule 22. This rule states :

"If at any time a motion, signed by 16 Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the Presiding Officer shall at once state the motion .... and submit to the Senate by an aye-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then the said measure shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than 1 hour on the amendments thereto, and motions affecting the same. . . . ."

This rule has several loopholes, the most serious of which is that it can be applied only to a "pending measure" and not to motions or amendments. For this reason, it was doubtful if the motion to amend the cloture rule would ever reach the measure stage. When Senator Lucas introduced his motion on February 28, the filibusterers opened their attack, confident that they could not be stopped.

There were others, however, who believed that the word "measure" in Rule 22 embraced motions as well as actual legislation being considered. On March 10, 33 of these senators under the leadership of Senator Lucas filed a petition with the Vice President to apply Rule 22 to the filibuster which was going on against consideration of the proposed rule against filibustering. Vice President Barkley ruled that Rule 22 could be invoked to limit debate on a motion to take up a bill. This was contrary to a previous ruling made by Senator Vandenberg, of Michigan, while serving as President Pro Tem of the Senate in August, 1948. The Vice President's ruling was appealed, and on March 11, his decision was rejected by a vote of 46 to 41. With the announcement of this vote, the prospect of obtaining any effective cloture rule was lost for the present.

FORUM presents below excerpts from the now famous, or infamous, filibuster of 1949:[1]

## RULE 22

The VICE PRESIDENT. The Chair supposes that he might as well proceed to a ruling:

The Chair appreciates the importance of the question now before him; and because of its importance, the Chair will ask the Senate to indulge him in a discussion of the whole matter.

Many conflicting statements have been made. Even the Chair has been quoted on both sides of this point of order, tonight; and the Chair supposes that cancels his

[1] *The Congressional Record, Senate,* Vol. 95, No. 37, pp. 2217-2219; No. 38 pp. 2274-2322.



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statements altogether. The Chair will not comment upon that. But there have been so many speculations, predictions, and comments, both in the Senate and in the press and otherwise, as to how the Chair would rule, that the Chair feels somewhat like the man who was being ridden out of town on a rail: Someone asked him how he liked it; and he said that if it were not for the honor of the thing, he would just as soon walk. [Laughter.]

There are two phases of this matter, as the Chair sees it. One is an effort to ascertain what the Senate intended when it adopted rule XXII; and the other is the application of the precedents or decisions which heretofore have been made in interpreting rule XXII. The Chair wishes to analyze those decisions to the best of his ability.

The first case which arose, following the adoption of the rule to which reference has been made, was in connection with the Treaty of Versailles, which was before the Senate in 1919. It had been made the unfinished business by a vote of the Senate, and was the pending measure. During its pendency and the discussion upon it, various amendments and reservations were offered to the resolution of ratification; and debate upon them proceeded for some length of time.

Senator Hitchcock, of Nebraska, who was in charge of the treaty, filed a petition for cloture, not on the treaty itself, but on the reservations and amendments to the resolution of ratification of the treaty. The Chair held—and the Senate sustained the Chair in the ruling—that cloture did not lie on the amendments or the reservations to the treaty. What the Chair would have ruled if the petition for cloture had been filed on the treaty itself, the Chair cannot now speculate.

But if the petition had been filed on the treaty itself, and had been adopted by the two-thirds vote required under the rule, that would automatically have limited or closed debate on the amendments and reservations, because, under the terms of the rule itself, when a cloture petition is filed and is adopted by the Senate on the main pending measure it applies to all amendments which have been presented up to that time.

So the ruling of the Chair and the action of the Senate in holding that a cloture petition could not be filed as to an amendment to a measure which was the main measure pending before the Senate, does not, it seems to the Chair, have any application to the pending motion offered by the Senator from Illinois [MR. LUCAS].

Passing for the moment the rulings of Vice President Dawes in 1927—which likewise, it seems to the Chair, have no relation to this matter, because there was a pending measure before the Senate, and the cloture petition seems to have been filed on a measure which was being debated, instead of the one which was actually the pending measure and the unfinished business—we come to the next precedent to which reference has been made, and which has been relied upon—namely, the ruling made by the distinguished Senator from Tennessee [MR. MCKELLAR] as President pro tempore of the Senate in 1946. In that case the Senate had, by affirmative action made Senate bill 101 the unfinished business of the Senate. It was known as the F.E.P.C. bill, in charge of the Senator from New Mexico [MR. CHAVEZ]. While that measure was pending and under discussion, an adjournment was taken, which brought about the morning hour. The question of amending the Journal was raised. Strange to say, the rule does not require the approval of the Journal. The Chair has been under a different impression. We have from time immemorial by habit secured an approval of the Journal; but the rule itself says nothing about the approval of the Journal, but provides for its being read for amendments and corrections.

The Journal was under discussion, on a motion to amend it, and while that was in progress, a petition for cloture was filed on Senate bill 101, which had been made the unfinished business. It had been the pending measure. The Senator from Tennessee, acting as President pro tempore of the Senate, held that the motion to amend the Journal displaced Senate bill 101 as the pending measure, and that inasmuch as the cloture petition had been filed on Senate bill 101, which at least for the time being had ceased to be the pending measure, it was not receivable and could not be filed, because it was presented at a time when a motion to amend

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the Journal was under discussion, which temporarily at least had suspended the status of Senate bill 101 as the pending measure.

Therefore, in effect, the Senator from Tennessee, as President pro tempore, was not required to pass on the question whether a cloture motion would be applicable to a motion to amend the Journal, because it was not so filed. It was filed for the purpose of bringing about the closing of debate on Senate bill 101, which the Senator from Tennessee held was not the pending measure at the time the cloture motion was filed. Therefore, in the opinion of the Chair, that ruling does not apply to the present situation.

We come now to the decision made in 1948 by the distinguished Senator from Michigan [MR. VANDENBERG]. The Chair was happy the other day to see the distinguished Senator from Michigan quoted in the press as having said this was not a contest of popularity between the Senator from Michigan and the present occupant of the Chair. The present occupant of the Chair is very happy to feel that that is true; because if it were the question, the Chair would be foredoomed to defeat on that proposition in a contest with the Senator from Michigan. The Chair is sure the Senator from Michigan and all other Senators know there is no Senator here, nor has there been one since I have been in the Senate, for whom I have a more affectionate regard, and for whose opinions I have more profound respect than I have for his.

The pending measure at that time was Senate bill 2644, which was under the sponsorship and in control of the Senator from Maine [MR. BREWSTER], providing for the development of civil-transport aircraft adaptable for auxiliary military service. That bill was the unfinished business and the pending measure at the time the Senator from Nebraska [MR. WHERRY] moved that the Senate proceed to consider House bill 29, the anti-poll-tax bill passed by the House, which had been reported by the Senate committee and which was on the calendar. That motion was in order. If it had been voted on and had been successful, it would have displaced Senate bill 2644, because a motion to proceed to the consideration of another bill while a bill is under consideration as the unfinished business and the pending measure, if successful, displaces the original bill and puts it back on the calendar. That is what the Chair had in mind when this debate began, in his probably rather presumptuous effort to advise the Senate in regard to some of the rules in regard to the procedure. But a mere motion to take up one bill cannot be amended by a motion to proceed to the consideration of another bill. Such a motion is not in order. The motion to take up the first bill would have to be defeated before a motion could be made to consider another bill. In other words, a motion to take up Senate bill 46, for instance, cannot be substituted for a motion to take up Senate bill 92. The motion to take up bill 92 must be defeated, and then a motion made to take up bill 46, if that is what is desired.

So when the Senator from Nebraska made his motion to proceed to the consideration of House bill 29, which was an anti-poll-tax bill, in lieu of Senate bill 2644, which was the pending measure, a point of order was made. After some debate, a petition for cloture was filed, on the motion of the Senator from Nebraska. A point of order was made by the Senator from Georgia. It was debated. I think it is fair to assume the point of order of the Senator from Georgia was based upon his belief and conviction that a petition for cloture would not lie in regard to a motion to proceed to the consideration of a bill. The point of order was debated. The present occupant of the Chair, as Senator, took part in the debate. That is one reason why the Chair has felt it a duty to himself and to the Senate to go as deeply as possible into this whole question, so that he would not be prejudiced or even influenced by that action, and the position which he took as Senator on the floor, although the Chair recognizes that when a Senator later becomes the Presiding Officer, the situation is not precisely comparable to that of a lawyer in court employed by a private client to prosecute or defend a lawsuit, who later goes on the bench to decide cases that might involve the same problem.

After debate, the then Presiding Officer, the distinguished Senator from Michigan, ruled that the pending measure was not the motion of the Senator from Nebraska to

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proceed to the consideration of House bill 29, but that the pending measure was Senate bill 2644, the aviation bill. Having decided that the aviation bill was the pending measure and that the motion of the Senator from Nebraska was not the pending measure, the Senator from Michigan might have rested his decision on that point alone, because, if, by that decision, the motion of the Senator from Nebraska was in a sense, as we say, thrown out of court, it followed almost automatically that a cloture petition could not lie upon that motion. But, inasmuch as the Senator from Georgia had made his point of order on the ground that the motion itself was not in order, and that any motion to proceed to the consideration of a bill or resolution could not be construed as the pending measure in the sense that a petition for cloture would lie, the Senator from Michigan no doubt felt an obligation to comment on the situation and to rule on it, in a fashion. I mean by that, having made the other decision, although I doubt if the Senator from Michigan who was presiding at that time intended it so, it might be classified as *obiter dictum,* as lawyers and judges say when a judge renders a decision which makes unnecessary a declaration or observation in the decision of the matter before him.

Be that as it may, in view of the fact that the Chair ruled that the pending measure at that time was Senate bill 2644, upon which no petition for cloture had been filed, therefore the motion of the Senator from Nebraska was not the pending measure, although the Chair ruled upon the point of order made by the Senator from Georgia.

The Chair is of the opinion that that situation and its complications are not applicable to the question which is now presented to the Chair, so that the Chair does not feel that previous decisions, based upon a different state of facts and a different legislative situation in the Senate, are binding upon the Chair at this time in passing upon a simple question as to whether a motion, a stark, uncomplicated motion, with nothing else pending before the Senate, is the subject of a cloture petition.

In order to reach a reasonable conclusion on that point the Chair has read and re-read the debates which took place at the time the rule was adopted; and as the distinguished Senator from Michigan said, in his comments on August 2, last year:

"The question is not new before the Senate, because it has been under discussion ever since the Senate was organized in 1789. Various efforts have been made to bring about the closing of debate, but not until 1917 was any formal rule adopted providing for cloture such as that which is in rule XXII."

The Chair not only has read the debates which took place at that time, but has also tried to get some help from law dictionaries, decisions of courts, and from all kinds of sources that might shed some light upon what the Senate meant or thought it meant when it used the phrase "pending measure." It has long been the practice of courts, in undertaking to interpret statutes, not only to look at the wording of a statute, but, if there be any ambiguity or uncertainty, to resort to the debates in the Congress or in the legislature or to the reports of committees on the legislation passed, in an effort to divine the intention of the legislative body in passing the act.

The Chair was unable to find very many decisions—in fact, only one legal decision—defining the word "measure," and that was in a case in Arizona in which under the initiative and referendum, there had been submitted to the people to vote upon an act of the legislature or a proceeding of the legislature. The supreme court of that State held that under a constitution providing for initiative and referendum there had not been submitted a completed act upon which to vote, and they could not submit to the people a mere proceeding or anything less than a complete act upon which the people could vote.

The Chair has also undertaken to enlighten himself about what the Senate meant in 1917, by looking at all sorts of dictionaries, literary and legal. While they are not binding on the Chair, or on the Senate, they do shed some light upon what the Senate was trying to do in 1917. It is not necessary to quote those definitions, but the most reliable and, the Chair thinks, probably the one

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which sheds the most light upon the question, is the definition found in the Century Dictionary, which defines a measure as one of a number of progressive steps looking to a definite conclusion, looking to the accomplishment of a fixed end. Therefore, if that sort of definition should be applied here, it would undoubtedly apply to the word "measure" in the rule.

In the debates which have taken place and in the decisions of courts there seems no question that a court has the right to interpret a statute. It has a right to construe it as it may apply to situations within the intention of the legislature. Courts have even gone so far as to say that a court may so construe a statute as to make effective the meaning of the legislative body, even though the formal words used do not precisely match the situation with which it is seeking to deal. The Chair thinks that is a general rule of construction which lawyers and judges generally recognize.

Now, therefore, what was the Senate seeking to accomplish in 1917? The distinguished Senator Walsh, of Montana, who was one of the ablest lawyers who ever served in this body, made a very long speech in which he argued the question whether the Senate was a continuing body and whether its rules had to be changed every time a new Congress convened. That has no relationship to this matter, but the final conclusion to which he came was that, without regard to that question, the Senate had the right to adopt such rules as would enable it to transact its business. Senator Cummings, of Iowa, who was at that time a distinguished Senator and was later President pro tempore of the Senate, made an address in which he said that he had long been in favor of the closing of debate in the Senate, and had long been in favor of amending the rules so as to enable the Senate to transact its business. To the same effect were the statements of Senator Hoke Smith, of Georgia; Senator Vardaman, of Mississippi; and Senator Hardwick, of Georgia.

In his decision in 1946 the Senator from Tennessee [MR. MCKELLAR] quoted a statement by Senator Underwood, of Alabama, in arguing a point of order, in which the

Herblock in *The Washington Post*, "The Silent Debate."

Senator from Alabama said that the rule was intended to apply to a bill, a resolution, or any other parliamentary action that was before the Senate for its consideration.

While the question of a motion or any other ancillary proceeding prior to the making of a definite bill the unfinished business of the Senate was not mentioned, those who voted for the amendment of the rule indicated, as it appears to the Chair, at least, that what they were trying to do was to close debate on the process which may have been before them, which they construed as business, in order that they might transact that business. Those who voted against it—only three, Senator Sherman, of Illinois, Senator La Follette, of Wisconsin, and Senator Gronna, of North Dakota—placed their opposition to the amendment of the rule on the ground that it undertook to limit debate, and they were unalterably opposed to the limitation of debate in the Senate. So, in his effort to find out what was in the mind of the Senate at the time, the Chair has reached the conclusion that what the Senate was trying to do, what it thought it was doing, what it

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intended to do, was to adopt a rule which would enable it to transact its business.

In order to nullify that intention, the Chair would feel that he must rule that the word "measure" or the words "pending measure" must be given the narrow, strained, and legalistic construction that they meant only a bill which had been made the unfinished business of the Senate, and therefore was the pending measure, and it undoubtedly would be a pending measure.

A motion to proceed to the consideration of a bill is an absolutely indispensable process in the enactment of legislation. It is just as indispensable in order that a law may become effective or be enacted by Congress as a vote on the bill itself when a final conclusion has been reached and the vote is taken. Without a motion to proceed to the consideration of a bill or resolution, the Senate cannot consider it, and therefore a motion to proceed is an indispensable step and a necessary part of the process taken by the Congress or any other legislative body in order that a bill may finally become a law.

The situation which exists here now is one which, in the Chair's opinion, has never presented itself before. This is the only time when an uncomplicated, bald, stark motion, without anything else on the calendar, without anything else pending before the Senate, has been presented. All the other situations to which reference has been made were complicated by some other matter that was pending at the same time which the Chair has held constituted the pending measure.

The Chair is unwilling to believe and cannot believe that in 1917 the Senate did not know what it wanted, did not know where it was going, and did not know how to get it if it did know where it was going. The Senate at that time was composed of some of the most distinguished men in the history of the Senate. The Senator from Massachusetts, Mr. Lodge; the Senator from Iowa, Mr. Cummins; the Senator from Georgia, Mr. Hoke Smith; the Senator from Mississippi, Mr. John Sharp Williams, and his colleague Mr. Vardaman; and many other Senators whose names could be mentioned only to emphasize the fact that they were able and outstanding Senators, composed the Senate at that time.

The Chair is unwilling to believe, from the debates which ensued not only on the resolution proposing an amendment to the rules, but the debates which had taken place from time immemorial in the Senate, that the Senate as it was then made up was so incompetent, so lacking in its conception of the effect of its action either on a rule or on a bill, that the Members contemplated that under the rule which they adopted a situation would arise such as that which confronts the Senate now. If what is contended is to be the rule of the Senate, then the Senate can never reach a point where it can vote on an amendment to its own rules, if there is a determined effort made to prevent the Senate from ever reaching that point.

## RULES

The Chair cannot believe that the Senate in debating this rule intended to freeze its own rules in perpetuity, so that it could never vote to change them so long as there was a determined group of Senators opposed to any change, who were willing to prevent the Senate from even considering a change in the rules except by unanimous consent, and it would almost amount to that.

Therefore it is the opinion of the Chair, without going into any further detail, that the precedents which have been cited do not apply to the present situation; that the Senate, when it adopted the rule, intended to make it possible for a cloture petition to be filed in order that it might transact its business, and certainly the motion under discussion is business, because if it were adopted, under the rule of the Senate in regard to quorum calls, it would be the transaction of such business as would justify another call after it had been voted upon.

Therefore, in view of the obvious intention of the Senate in 1917, as the Chair sees it, to close debate, as Senator Underwood said, on a bill, resolution, or any other parliamentary action that was before the Senate, and in view of the fact that the precedents which have been relied on do not, in the opinion of the Chair, apply to the present situation, the Chair cannot do otherwise than overrule the point of order, which he does.

Mr. RUSSELL, Democrat, Georgia. Mr.

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President, I appeal from the decision of the Chair.

The VICE PRESIDENT. The Senator from Georgia appeals from the decision of the Chair. The question is, Shall the ruling of the Chair stand as the judgment of the Senate?

. . . . . .

The VICE PRESIDENT. The question is, Shall the decision of the Chair overruling the point of order raised by the Senator from Georgia [MR. RUSSELL] stand as the judgment of the Senate?

Mr. VANDENBERG, Republican, Michigan. Mr. President, I briefly address myself to the pending appeal from the parliamentary decision announced last night by the distinguished Vice President on the point of order submitted by the able Senator from Georgia [MR. RUSSELL] in connection with the cloture petition submitted by the majority leader, the distinguished senior Senator from Illinois [MR. LUCAS].

It happens that I was the President pro tempore of the Senate who faced the hard duty of making the parliamentary decision last August, upon which the present controversy is considerably based. Therefore, I feel that I have some continuing responsibility. I also have a concern to keep the record straight. But I speak without pride of opinion, and solely for the purpose of attempting to make clear precisely what I believe to be involved in the Senate's vote on this appeal. I have no desire to argue the question, but I think it is only fair to what I conceive to be the vital importance of this issue that I should restate my position and bring it down to date.

Mr. President, I have not changed my mind about the jurisdiction of the present, existing Senate cloture rule. Despite the ingenuous thesis developed by the majority leader and by the Vice President to rationalize the latter's departure from what I believe to be the plain mandate of the rules and precedents, I continue earnestly to believe that the existing rule does not permit cloture on a motion to take up a measure.

With equal tenacity I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

One of the immutable truths in Washington's Farewell Address, which cannot be altered even by changing events in a changing world, is the following sentence:

> The Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.

I respectfully submit, as a basic explanation of my attitude, that I accept this admonition without reservation, and I think it is equally applicable to the situation which Senators here confront, though obviously the comparison cannot be literal. But, so far as I am concerned, the Father of his Country said to us, by analogy, "The rules of the Senate which at any time exist, until changed by an explicit and authentic act of the whole Senate, are sacredly obligatory upon all." I think that is the basic issue here today. Men of conscience obviously disagree about the facts. I respect their good faith, even though we reach opposite conclusions.

Mr. President, I repeat just a few words of the preliminary things which I said last August from the Presiding Officer's chair, so that there may be no misunderstanding of my motive. I think the Senate rules should be amended, by due process of law, to extend the two-thirds cloture rule to include motions and the entire parliamentary procedure involved in the legislative life of a measure. I favor the adoption of the Hayden-Wherry resolution. I think that unless the rule is changed as contemplated by the resolution, the Senate has no effective cloture at all, although a determined majority can break a filibuster if it really tries. Driven by experience to amend my much earlier belief in totally unlimited Senate debate, it is my conviction that the Senate must not longer leave itself in a legislative straitjacket and impotent to legislate except by the process of exhaustion. This cannot be longer condoned in these dangerous days.

I believe that the Hayden-Wherry resolution perfecting cloture by a two-thirds vote meets this need without sacrificing the Senate's birthright, which is full, free, fair

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debate with reasonable opportunity for the presentation of minority views and reasonable protection against intolerant and intolerable gags. To make my attitude totally plain, I think that any sort of majority cloture would violate these elemental specifications. I think the Hayden-Wherry resolution is the wise, rational middle ground.

But, Mr. President, as I said last August when I made my ruling, I repeat now, the rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of a equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper it is written on, and this so-called "greatest deliberative body in the world" is at the mercy of every change in parliamentary authority.

In my view this is far more than a contest over the definition of words, though it may seem so to the casual bystander. This is a contest over the definition of Senate rights. I have no more trouble today, as Senator, than I had last August, as President pro tempore, in giving priority to what I believe to be these vital fundamentals.

I hasten to say that no word of mine reflects, directly or indirectly, on the good faith with which the distinguished Vice President is acting. I am sure he does not think he is changing the Senate rules by interpretive action. I am sure he thinks that after 32 years of darkness, he is uncovering the true meaning of the rule. He made it plain at the time that he did not agree with the President pro tempore last August. Yet his speeches frequently referred to his belief that the rules themselves should be changed to accomplish such results as he now would achieve by fiat. But I think he is substantially consistent. He thought I was wrong then. I think, most respectfully, he is wrong now. I suppose this is just that difference of opinion which makes horse races, as they say in Kentucky.

But if I may be allowed to say so, with greatest respect, I deeply regret that the distinguished Vice President, who was then on the Senate floor, did not then put his convictions to the test by appealing to the Senate from the decision of the Chair. That was the logical showdown hour, if there was any serious question about the validity of the ruling of the Chair. He did not do so. His then able assistant, the present majority leader, did not do so. A *pro forma* appeal was entered by the distinguished senior Senator from Ohio [MR. TAFT], but it never was called up.

Senators who were here on that tense afternoon will recall that the President pro tempore repeatedly invited the Senate—indeed, he urged the Senate—to test his ruling on appeal. He said in plain language that he thought the Senate at the very least should decide by its own sovereign vote what it wanted the interpretation of the rules to be. But no appeal was taken when the President pro tempore ruled that a motion to create a new "pending question is not itself a pending question." I repeat, no appeal was taken. That is deeply significant.

Mr. LUCAS, Democrat, Illinois. Mr. President, will the Senator yield for a question?

Mr. VANDENBERG. Inasmuch as I have mentioned the Senator from Illinois, I will. I prefer to conclude my statement, and then yield.

Mr. LUCAS. Did I correctly understand the Senator from Michigan to say that no appeal was taken from the decision of the President pro tempore at that time?

Mr. VANDENBERG. I say that an appeal was submitted, but not pursued.

Mr. LUCAS. It was debated on the Senator's side of the aisle for a long time, until it was finally withdrawn by the Senator who was representing the majority at that time.

Mr. VANDENBERG. Well, whatever point the Senator from Illinois is making, I do not know.

Mr. LUCAS: But there was an appeal.

Mr. VANDENBERG. I have said an appeal was made *pro forma*. I have said it did not come from my friend the Senator from Illinois, that it did not come from my friend the Senator from Kentucky, and that it was never pursued to a finish. I submit that the absence of appeal upon that historic afternoon etched the precedent just that

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much deeper in the Senate's own recorded concept of its own rules, and makes its overthrow at this late date just that much more dubious. If the ruling was right then —and I repeat that it stood without final challenge—it is even more right today, in view of this circumstance.

Some say, "Oh, the issue today is different, and therefore the precedent last August does not apply today, in March." They say, "Last August the President pro tempore could point to the fact that there already was a 'pending question' before the Senate when he denied the legality of cloture on a motion to create a new and different 'pending question.' It is different now," they say, "all different. Now there is not any prior 'pending question.'"

That is right; there is not any "pending question" at all. There is only a motion to create one. Yet the rule says that cloture must attach to a "pending question." This petition seeks to apply cloture to something which does not exist. The senior Senator from Michigan confesses that he is not impressed with the logic which asserts such a profound difference between cloture on a motion to displace a "pending question" and cloture on a motion to create one. The latter would seem to me to be even more elemental than the former; but in both cases it is the "motion" which is ineligible under what I believe the rule to be.

I freely agree, Mr. President, that precedents are rarely literal in their parallels, although I believe this one to be more literal than usual. And since I want to join the able majority leader in pleading, as he did last night, that we shall not "split hairs," and since I want to join him in his Scriptural reminder that "The letter killeth, while the spirit giveth life," I respectfully ask to be excused from accepting what to me is the curious device by which the August precedent is thus sought to be escaped.

But the issue is now precipitated. Our parliamentary procedure has, by indirection, brought the Senate to a vote on a parliamentary ruling which would, for the time being, produce the same result as is sought to be produced by due process through the subsequent adoption of the Hayden-Wherry resolution. Thus, we sort of adopt the resolution in advance of adopting it. I do not know whether the dictionaries which Senators have been quoting would define that anomaly as "standard practice" or not. In any event, when the Senate decides, I want it distinctly understood that I shall act on the basis of its decision in further proceedings on this resolution.

Mr. President, it will be apparent that I attach high importance to the approaching roll call. Therefore, I urge that all Senators make sure they address their judgments to the one and only issue which in my respectful opinion is here legitimately involved. I urge that we put first things first, and keep them there.

The one and only legitimate issue in the approaching vote is this: What does the present rule of the Senate say and mean—not, what would many of us like to have it say and mean. We are not voting in this instance on whether we want a more effective cloture rule, and our votes are not appropriately related to that question. I say again I am one of those who do want a two-thirds cloture which shall apply to the total parliamentary procedure in respect to any measure. I shall so vote when that is the issue before us. But that is not the issue here. The immediate pending question is solely what the present and existing Senate cloture rule, with its interpretive precedents, says and means—that, and nothing else. If its present meaning, until changed by direct Senate action, is not faithfully protected, it makes little difference what we write into this or any other rule.

## INTEGRITY OF RULES

It may be said that we really are in effect actually voting for more effective cloture, if we sustain the ruling of the Vice President, because he would do, by a parliamentary device, precisely what the Hayden-Wherry resolution would subsequently accomplish by due legislative process. But I respectfully submit that this very fact underscores my contention that this is an affront to due legislative process. My point remains that our attitude toward the integrity of the rules and not our attitude toward cloture, is the one and only question legitimately at issue on the approaching roll call.

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Let me emphasize this point, Mr. President. I feel it is cardinal. I have heard it erroneously argued in the cloakrooms that since the Senate rules themselves authorize a change in the rules through due legislative process by a majority vote, it is within the spirit of the rules when we reach the same net result by a majority vote of the Senate upholding a parliamentary ruling of the Vice President which, in effect, changes the rules. This would appear to be some sort of doctrine of amendment by proxy. It is argued that the Senate itself makes the change in both instances by majority vote; and it is asked "What is the difference?" Of course, this is really an argument that "the end justifies the means."

I think there is a great and fundamental difference, Mr. President. When a substantive change is made in the rules by sustaining a ruling of the Presiding Officer of the Senate—and that is what I contend is being undertaken here—it does not mean that the rules are permanently changed. It simply means, that regardless of precedent or traditional practice, the rules, hereafter, mean whatever the Presiding Officer of the Senate plus a simple majority of Senators voting at the time, want the rules to mean. We fit the rules to the occasion, instead of fitting the occasion to the rules. Therefore, in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate. That, Mr. President, is not my idea of the greatest deliberative body in the world.

Again, we are not voting, on the next roll call, as to whether we do or do not favor new civil-rights legislation. I am one of those who do favor sound progress in this direction—under cloture if necessary—as my record clearly demonstrates. I shall continue this record consistently. But that is not the pending issue. The pending issue transcends any specific legislative program, no matter how notable or worthy. No matter how important its immediate incidence may seem to be to many today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

Again, we are not voting, fortunately for me, as the Vice President has already good-naturedly said, in a popularity contest between the distinguished Vice President and the President pro tempore of the last Congress. We are not voting in a political contest between a Democratic Vice President who rules one way and a Republican President pro tempore who ruled another. Perhaps this admonition is needless. But I merely want to be sure that none of my colleagues shall feel under the slightest compunction to vote on a friendship or loyalty basis so far as I am concerned. This is a solemn decision—reaching far beyond the immediate consequence—and it involves just one consideration. What do the present Senate rules mean; and, for the sake of law and order, shall they be protected in that meaning until changed by the Senate itself in the fashion required by the rules?

## ISSUES

Here it is in a nut shell.

The Senate rules say that a cloture petition can be addressed to any pending measure.

The distinguished Vice President, supported by many of my closest colleagues, for whose opinion I have the profoundest respect, says the phrase pending measure includes a motion to make a bill or resolution the pending measure. He rules that a motion to create a pending measure is itself a pending measure.

The former President pro tempore ruled that the Senate cannot create a pending measure until it has adopted the motion which undertakes to make it the pending measure. Since the rule confines itself to the pending measure, the present rule does not create the measure, which is prerequisite to cloture.

I submit that this latter construction is the uniform and controlling Senate precedent in so far as and in whatever degree the precedents are pertinent. Certainly there is no shadow of a precedent to the contrary.

I submit that the very first Senate precedent, back in 1919, for whatever it is worth, confirms this view, even though the analogy may not be complete. At that time the late Senator George W. Norris was sustained,

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on roll call, on the point of order against cloture on reservations to a treaty which was the pending measure. His position was sustained in a Senate overwhelmingly composed of Senators who had created the cloture rule and who knew, better than can we, what were the rule's limitations.

Whatever the appropriate analogy at this point—and be it great or small—it will not escape the attention of Senators that, within 2 years after the adoption of the cloture rule, it was declared by its own authors not to cover the total legislative process, but really to relate to a correct identification of what was a pending measure. We hear it argued that these wise men surely intended totally effective cloture without what are now called loopholes. Well, Mr. President, all I know about it is that they themselves created at least one so-called loophole within 2 years of their promulgation of the rule and they did not act to close it. Others may speculate upon their intentions . . . .

I submit that the Committee on Rules and Administration, in the recent Eightieth Congress, sustained my view when it reported a resolution—the forerunner of the present Hayden-Wherry resolution—to extend to motions as well as measures, the objective sought to be reached by the ruling of the distinguished Vice President. That was a year before the President pro tempore's ruling. Surely the Committee on Rules and Administration would not have proposed to amend, by due process, the cloture rules to bring motions within its jurisdiction if they were already there. It did not occur to anyone at that time that they were already there.

I submit that the Committee on Rules and Administration, in the present Eighty-first Congress, takes the same view, or it would not have reported the Hayden-Wherry resolution to bring, by due process, motions within the jurisdiction of the cloture rule. Indeed, the current report of the Committee on Rules and Administration of the Senate categorically asserts that the decision of the President pro tempore last August was correct. The opinion of the Committee on Rules and Administration is not lightly to be set aside in a problem of this character.

I submit, Mr. President, that every Senator here today is conversant with our unanimous-consent procedures. We all know, by repetitious experience, that unanimous-consent agreements always spell out their reference not only to the pending measure, but also to all motions in connection therewith. Why? Because it is the rule, the practice, and the precedents of the Senate that "pending measures" do not include "motions."

Senators, it is against this background that today's appeal from the ruling of the Chair—a ruling, I respectfully submit, that nullifies this total record—must be considered if we are to vote upon the only consideration which we are entitled to consult when the integrity of the Senate rules is at stake.

**NEED**

Finally, Mr. President, I respectfully suggest that if the ruling of the Vice President is not sustained, there still remains the necessity for passing now cloture legislation by due process, and every effort must be made to this end. Somewhere, somehow, it ought to be possible to find a meeting of minds among reasonable men of good will upon a problem of such transcendent importance. There must be some reasonable form of effective cloture in the Senate, just as there also must be some reasonable form of effective protection for full, fair freedom of debate. I personally think the Hayden-Wherry resolution is the answer. But whatever the right answer, it must be found not only for the sake of the public welfare and the national security, but also for the sake of the dignity of the United States Senate.

I prayerfully wish, Mr. President, that instead of entrenching in extreme positions at either end of the argument, we might set our minds to an equitable composition of a problem which will plague us with increasing bitterness and disruption until, by due process, we strike common ground. There can be no "winner" in the kind of endless battle which goes on here today.

Mr. KNOWLAND, Republican, California. Mr. President, and Members of the Senate, it is with some hesitation that I follow my distinguished colleague from the State of Michigan [Mr. VANDENBERG].

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During the three-and-a-half years I have been in the Senate there have been few occasions on which I have differed from his point of view on legislation and other matters pending before the Senate. But, Mr. President, I wish to submit that if rule XXII does not apply to motions to bring a bill or a resolution before the Senate of the United States, then rule XXII was an absolutely idle gesture by the men who constituted the Senate of the United States in 1917, because no bill or resolution can come before this body except by motion.

I also want to say, Mr. President, that I, too, as have a number of Members on both sides of the aisle, read every word of the debate preceeding the adoption of the present rule XXII. There is nothing in that debate which indicates in the slightest degree that the Senators who proposed rule XXII were doing it with their tongues in their checks or were doing it for the purpose of deceiving either the Senate or the public. It is clearly apparent that they thought they were adopting an effective cloture procedure. I submit, Mr. President, that had they desired to place this narrow interpretation upon the rule, they could very easily have done so by striking out the word "measure," which appears in the rule, and which, as the Senator from Massachusetts [Mr. SALTONSTALL] last night pointed out, by dictionary definition, is a part of a continuous legislative process—they could have stricken out the word "measure" and merely inserted the words "bill or resoultion." That would have given the narrow interpretation confronting us.

Mr. President, there are two ways a bill or resolution can be defeated. One is to have a majority of those voting cast their votes against it. In this case each Senator, on his own responsibility, participates in the legislative process and is answerable to the people of his State for his actions. The other way is to talk a bill or resolution to death. In either event the bill or resolution is dead. However, in the first method a Senator voting "No" cancels out the vote of a Senator voting "Aye." In the first case each Senator and the States have the equal representation the Constitution provides. In the latter case, by the use of the unlimited filibuster, one Senator cancels out the right to vote of 10 or 20 of his colleagues.

In no sense is Resolution 15 a "gag rule." To the contrary, it is a moderate proposal to enable the two-thirds rule to function as it was intended to function by those who adopted it in 1917.

If in this clear-cut case before us today, when there is no pending business other than the motion of the Senator from Illinois, the cloture rule does not apply, then the Senate is helpless, and is deprived of the power given it by the Constitution of the United States to "determine the rules of its proceedings."

No matter how distinguished the authorities are and have been who ruled on different points of order from the exact parliamentary situation we face today, the fact still remains that the entire membership of the Senate should and must retain its constitutional rule-making power.

The moderate proposal contained in Resolution 15 is not new. Its language is exactly the same as that reported favorably by the Rules Committee during the Eightieth Congress.

On February 18, 1947, the distinguished senior Senator from Georgia [Mr. GEORGE], in his statement before the Rules Committee then holding hearings on the question of the cloture rule, had this to say. I quote from page 114 of the hearings:

> I am not disposed to quibble over the language of rule 22 as it now stands.
>
> At the outset I concede that the rule may properly be made applicable to any pending motion, question, or measure. This, of course, involves a change in the rule and a substantial change in point of fact, but, nevertheless, it is a change which I think should be made in the Senate rules.
>
> The real question before this committee resolves itself as follows: Is debate in the Senate to be limited by a decision of the majority present and voting upon the motion; by the decision of a constitutional majority; that is to say, by a majority of the whole membership of the Senate * * *; or is the rule to stand under which debate cannot be effectively closed unless two-thirds of the Senate present and voting upon the cloture motion decide to limit or close debate? All other questions are immaterial and we are, therefore, brought face to face with the consideration of the real issue involved here—whether we will limit or close debate by a mere majority of those present

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> and voting upon the question, whether we will require a constitutional majority of the whole membership, or whether we will permit the two-thirds rule, which has been in effect since 1917 to stand.

Mr. President, I was then and still am impressed by the argument made by the Senator from Georgia at that time. The committee was also. It appeared reasonable to assume that if the committee during the Eightieth Congress dropped the proposals for a simple majority or a constitutional cloture and merely closed the loopholes to make rule 22 effective, such a moderate proposal would receive the support of our colleagues from the South, or, if not their support, at least, would not have their bitter opposition.

In every way during the course of this debate those of us who favor this moderate Resolution 15 have sought to bridge the gap between us. On numerous occasions we have stated that a careful check on both sides of the aisle has indicated an overwhelming vote against any amendment to change Resolution 15 from an effective two-thirds rule to a majority cloture. Up to this moment we have received no assurances of cooperation.

Yet I do not easily abandon hope. The able senior Senator from Michigan [Mr. VANDENBERG] has made it clear that the Senate should not fall prey to either extreme. Legislative minorities have rights which should be protected, but so do legislative majorities. There must be a common ground upon which reasonable men can meet.

An effective two-thirds rule is certainly considered fair by a vast majority of the Members of this body from every check that has been made. If the Senate is allowed to exercise its constitutional rule-making power by voting on a two-thirds effective cloture rule, this can be soon demonstrated. But unless the Chair is sustained, or those engaged in the prolonged discussion for the purpose of preventing the motion of the Senator from Illinois from being voted upon abandon their tactics, the Senate may never have an opportunity to vote on a change in the rules or to exercise its rule-making power under the Constitution . . . .

Mr. President, in the interest of giving those on the other side of the aisle the maximum protection which can be given under our rules, I would be willing and am prepared on my own responsibility to offer an amendment to rule 22 reading as follows:

> The above provision requiring a two-thirds vote of those voting to bring the debate on a question to a close shall not be changed, modified, or amended except by a two-thirds vote of the Senators present and voting.

This, Mr. President, together with the effective two-thirds cloture provisions provided in Resolution 15, should give the protection intended in rule 22 by the Senator from Georgia [Mr. GEORGE] and by others who have opposed majority cloture on both sides of the aisle.

What is the alternative with which we are faced? The alternative is for the Senate to surrender its rule-making power and its legislative power into the hands of a small minority of the Senate. I do not refer now to the considerable minority now opposing Resolution 15, but to every future hostile minority which may attempt to force its will upon the Senate by the unlimited use of the filibuster to prevent the Senate of the United States from discharging its constitutional legislative duties and from discharging its constitutional rule-making power.

If that be the issue with which we are confronted, then this question must be fought out again and again, day in and day out, at this session and at the next session.

But we do not need to disrupt the business of the Senate and the security of the country by such a contest, which would be bound to leave deep scars.

For that reason, Mr. President, I have offered here a possible amendment to the rule which will give the maximum protection the rules of the Senate will permit to be given to those who wish to assure that they have an effective two-thirds cloture rule, and not something else.

Mr. President, as a Senate we cannot, we dare not, say now and thus continue some of the precedents which have been established, that this body does not have control over its rule-making power.

For the reasons I have given, Mr. President, I urge that the decision of the Chair be made the judgement of the Senate.

Mr. BALDWIN, Republican, Connecti-

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cut. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. MYERS in the chair). The Senator will state it.

Mr. BALDWIN. Would it be in order for me to ask a question of the majority leader?

The PRESIDING OFFICER. It would be in order.

Mr. BALDWIN. The question I desire to ask is this: If the Senate votes to sustain the Chair in its ruling, does the majority leader then intend to proceed to an amendment of the rules as recommended by the Hayden-Wherry resolution? I make this inquiry because I am deeply impressed, as all of us are, by the able and thought-provoking address delivered by the able Senator from Michigan [Mr. VANDENBERG]. As for myself, I do not like to see the rules of the Senate, established on long precedent, changed in this fashion. However, if we are to proceed, by way of such a change, to an amendment of the rule so that the rule will rest in the future upon a written statement amending the rule and not upon a precedent established by a ruling of the Chair, I shall feel quite differently about the matter.

Mr. LUCAS. Mr. President, in answer to the inquiry of the able Senator from Connecticut, I will say that if the Senate should sustain the position taken by the Vice President last evening, it would practically accomplish what ultimately the rule would accomplish. So far as the Senator from Illinois is concerned, it would seem to him that if the Senate should sustain the ruling made by the distinguished Vice President, we should not have very much difficulty thereafter in obtaining a rule in line with what the Senator from Connecticut suggests, and insofar as the Senator from Illinois is concerned, he will continue to strive to obtain such a rule.

Now that the Senator from Connecticut has propounded the inquiry, the Senator from Illinois would say that the one way ultimately to secure the rule we all want is to sustain the Vice President's ruling, because that is the first step in the ultimate obtaining of the objective of the Hayden-Wherry resolution. If that ruling is not sustained, no Member of the Senate can say how long it will take in a sort of physical endurance contest to accomplish the things the Senator from Connecticut and the Senator from Michigan and every other Senator who is vitally interested in the problem, really want to have accomplished.

So far as the Senator from Illinois is concerned, he will make it the unfinished business to see whether we cannot finish it up if the ruling of the Chair is sustained.

Mr. BALDWIN. Mr. President, I thank the distinguished Senator from Illinois. I do not want to have anything I have said construed as a criticism of the distinguished Vice President who has ruled in a manner different than has been ruled previously when similar questions have been presented in the Senate. I do not support the ruling as a matter of expediency. I myself feel that it is an open question whether or not the word "measure" means a bill or a resolution or whether the word "measure" means any parliamentary proceeding in due course in the business of the Senate. Personally I take the latter view. I believe, as the distinguished Senator from California has said, that had those who made the rule intended it to apply only to a bill or a resolution, they would have said so. It has always seemed to me, in the brief experience I have had in legislative assemblies, that the term "measure" was an all-inclusive term; that it was used to embrace bills, resolutions, or any proposal of action presented for the vote of a legislative assembly. I do think, however, that we will rest on a much firmer foundation for the future if the proposed change in the rules is accomplished by an amendment as called for by the Hayden-Wherry proposal, and not have to depend upon the foundation of a precedent which to many of our colleagues appears to be a reversal of the position the Senate has long taken.

It seems to me, Mr. President, that at this juncture we should preserve in every way we can the rights of the minority. Those who drafted the Constitution of the United States took particular care to see to it that there was provision in that document to guarantee the integrity and the rights of the smaller States, and that is why they

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made that one provision of the Constitution a provision which never could be amended.

On the other hand, Mr. President, since those days, so long ago, the business of the Senate has increased enormously. Since those days, so long ago, the position of our country in the world has changed. We now find the business of the Senate tremendously pressing. Not only are there great and important measures before us, but there are also smaller matters which are in themselves important, which have to be considered; smaller matters in great number and increasing number I might say, Mr. President. It therefore seems desirable to me that at this day and time we find the best means we honestly can to accomplish this amendment of the rules, which guaranties the rights of the minority, at the same time to protect the rights of the majority and to guarantee ultimate majority rule.

Mr. President, I should like to support the proposed amendment offered by the distinguished Senator from California, because it accomplishes exactly that. It makes it possible for the majority to function in very pressing days, with many urgent matters before us, and at the same time it does protect the rights of the minority.

Mr. President, if we sustain the ruling of the Chair and then move on and adopt the change in the rules, as the distinguished Senator from Illinois says he intends to urge us to do, I venture to prophesy that in the future it will be even harder to get a cloture petition signed by a sufficient number of Senators so that it will be presented as an issue for a vote on this floor, because I think that we are all sensitive to the fact that the rule we are considering here, if adopted, is epoch-making. But I for one, Mr. President, firmly believe that it is a rule we must adopt; it is a change we must make; it is a thing we must do to make it possible for this, the greatest deliberative and the greatest free assembly in the world, to get its work done, because it must be free, but at the same time it must have rules under which it can accomplish the pressing business it has to consider and act upon and decide upon in these rushing days.

Mr. LUCAS. Mr. President, will the Senator yield for one question?

Mr. BALDWIN. I yield.

Mr. LUCAS. I am very happy the Senator has raised this issue, and based upon what he has said in his very eloquent statement, I am sure he agrees with me that the one way, or at least one step in the direction that he and I are seeking to go in closing the gaps and the loopholes which now make it impossible to limit debate, is to sustain the ruling of the Chair. When we get the loopholes stopped up it will be a long step in the direction of ultimately securing a complete change in the rules through the proper legislative committee.

Mr. BALDWIN. Mr. President, in reply I may venture one further remark. If the ruling of the Chair is not sustained, I for one am willing to stay here until we talk this matter out, until we reach a vote upon his rule, if it takes all night tonight and all night every night next week, or as many days and nights as we may be called upon to sit thereafter. I think now is the time we should bring this matter to decision. If the ruling of the Chair is not sustained, I should feel very sorry if then the majority leader should say, "Well, cloture does not apply. We cannot end the debate. There are many other pressing matters. We must drop this and go on to something else." So, just as strongly as he has urged me to support the ruling of the Chair, I in turn urge him to continue on until we come to a vote upon this change of the rules, whether the Chair is sustained in this particular ruling or whether the Chair is not sustained.

Mr. LUCAS. Mr. President, will the Senator yield for a further question?

Mr. BALDWIN. I yield.

Mr. LUCAS. The Senator will agree with me, will he not, that the objective which he and I are attempting to reach can be reached much more quickly, and we can break down the opposition faster if we are able to sustain the decision of the Chair, because we shall then be in a position to make the amendment to the cloture rule the unfinished business? If the decision of the Chair is sustained, I promise the Senator

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that, so far as I am concerned, I shall be willing to go on to see that we finally get the rule about which he is talking.

Mr. BALDWIN. I will say to my distinguished friend that my name is upon the cloture petition; and having embarked upon that course, I intend to see it through.

Mr. LUCAS. I thank the Senator.

Mr. BALDWIN. I urge the Senator, in turn, if we fail in this particular course, to adopt the other, and continue until this issue is finally resolved.

. . . . . .

Mr. LUCAS. Mr. President, I have not been a Member of the Senate as long as has my distinguished friend the Senator from Georgia [Mr. GEORGE] or my able friend the Senator from Michigan [Mr. VANDENBERG]. It is with some hesitancy that I even attempt to answer either of these two Senators, who have enjoyed long and distinguished careers in the Senate . . . .

I feel rather flattered that I should have made an argument last night which would cause the able Senator from Michigan [Mr. VANDENBERG] to declare in one of the able forensic efforts which he usually makes that mine was an ingenious argument offered to the Chair on the question upon which he was to make a ruling; and, taking slight advantage, I thought, of the distinguished Vice President, who was not in a position to answer, made the same remark about the ruling of the distinguished Vice President last evening. If I deserve that much attention on the part of the Senator from Michigan, who has such a reputation throughout the United States of America and the world, and cause him to do me the honor of even noticing a remark I happen to make, or the argument I made in behalf of the honest position I was taking, I am very much gratified, even though it may have been characterized as ingenious.

Mr. President, I have the highest measure of respect for the Senator from Georgia, and I deeply regret that the Senator from Georgia saw fit to say that he was shocked at a question which the Senator from Illinois propounded to the able Senator from New York this afternoon respecting the plank in the Republican platform concerning civil rights. Again I am flattered that I am able to draw to the attention of the Senator from Georgia, able and distinguished as he is.

Mr. President, I do not have the forensic ability or the persuasive power of either the Senator from Michigan or the Senator from Georgia, but certainly their eloquence should not cause me to quake or quiver, if I am to discharge my duty as I see it. I did not bring the civil rights question into this debate. I do say to the distinguished Senator from Georgia that he has made persuasive arguments germane to the issue before the Senate of the United States, but he is not the only individual who has discussed this question, and he had better look to some of his own brethren, who raised the question of civil rights in this debate. He had better be shocked at those Senators who were the first to raise the question of civil rights upon the floor of the United States Senate.

Mr. President, this is a memorable debate. I have conscientious convictions about what ought to be done under the circumstances. I assert that no one can fairly challenge my sincerity with respect to the position I took last evening when I made an argument on the point of order. There are other Senators who have convictions as conscientious as those of others who have been spoken here, about what ought to be done and what ought not to be done.

Mr. President, I consider the vote which I shall soon cast as important as any I have cast since I have been in the United States Senate. I know of no more important issue to come before the Senate of the United States or before the Congress, since I have been in the Senate than the one before us at this particular time, unless it be the question of the reorganization of the Supreme Court, which was discussed by the Senator from Georgia a few moments ago, a proposal which the Senator from Illinois, who was at that time a Member of the House of Representatives, opposed.

Mr. President, all I can do in my humble capacity as a Senator and as majority leader in the United States Senate on all these issues, is to hope that I am right, and pray that God will give me the power to see the right.

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I remind the Senator from Georgia, who talks about minority groups in the Senate being protected, that there are other minority groups involved in the issue before us, who ought also to be protected. There is not a Senator on this floor who does not know what lies behind the present debate. It cannot be hidden. I am going to talk about civil rights in this debate, and that is the issue, whether Senators like it or not. Everyone knows that is the issue.

## CIVIL RIGHTS

Why all the filibuster, why all the talk by my friends from the South about civil rights, if civil rights are not involved in the Hayden-Wherry resolution? Why did they not address themselves strictly to the issue, which ostensibly was a motion to proceed to the consideration of the Hayden-Wherry resolution? Because I asked a question about civil rights I am taken to task by my friend the Senator from Georgia. He is shocked. Perhaps it is well to shock great men once in a while, Mr. President.

There is something more in this issue than merely the amendment of the rule, or we would not have had a debate here for 10 days. Ninety-nine out of 100 motions which are made are agreed to, and the measures are taken up without any debate whatsoever. Yet for 10 days we have been struggling with a simple motion to take up Senate Resolution 15. And because our great Vice President, who has been consistent and honest from the beginning, made a ruling last night that the motion was a part of the measure, a continuous step from the time the motion is made until the consummation of action, it is said that he is all wrong.

The Senator from Michigan in referring to me said that I was being ingenious. He said we are trying to eliminate by a parliamentary device precisely what the Hayden-Wherry resolution would subsequently accomplish by due legislative process.

The Senator says this is an affront to due legislative process. Is it an affront because the Vice President disagreed with the distinguished Senator from Michigan in his ruling made last year? I undertake to say to the Senator from Georgia and the Senator from Michigan that they cannot point to a single precedent where the facts and circumstances before the Senate were the same as those upon which the able Vice President made a ruling last night.

The able Senator from Georgia talks about what great men had to say back in 1917 when the cloture rule went into effect. Long debate took place, occupying 26 pages of the CONGRESSIONAL RECORD. Throughout all that long debate there is not a single word to suggest that any one of the 88 Senators in favor of the resolution had any belief, or any reason to believe that the rule for which they voted contained gaping loopholes, or that any of those Senators favored the rule with the understanding that it would prove to be ineffective. It was debated from beginning to end as a rule to limit debate on any matter that might come before the Senate.

George H. Haynes, in his great work, the *Senate of the United States,* tells us that 33 Senators—as was mentioned by the distinguished Senator from Tennesse [Mr. KEFAUVER] this afternoon—33 Senators, headed by Simmons, Robinson, Lodge, and Borah, made a public pledge in the following language, which I again quote, to show the real intention of those men who were responsible for rule XXII:

> To cooperate with each other in compelling such changes in the rules of the Senate as to terminate successful filibustering and enable the majority to fix an hour for disposing of any bill or question—

Any bill or question, mind you—

> subject to the rule of 1 hour to each Senator for discussion before or after the hour is fixed.

Did these men know what they were doing when they wrote that provision? I would suppose they did. They signed that pledge with the understanding that it involved "any question." Do Senators think Joe Robinson did not know what he was doing? . . . .

This expressed intention of the supporters of the resolution is strangely at odds with the special interpretation placed upon the rule last year by the distinguished Senator from Michigan when he said:

> In the final analysis, the Senate has no effective cloture rule at all.

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But, Mr. President, that was not the basis upon which the Senator from Michigan made his ruling last year. That was his conclusion. Based upon what? Based simply upon the fact that the pending measure at that time was the aviation bill, sponsored by the Senator from Maine [Mr. BREWSTER], and in his opinion he so stated; but, Mr. President, after I called attention to that fact last night, not one word did the Senator from Michigan say in his explanation to this body today as to why it was he put that issue in his opinion if it was not the real, basic, fundamental point upon which he made his decision. And he talks about somebody being ingenious in an argument. If he had wanted to make a candid explanation to the Senate in the great effort he made today, he would have explaned why it was he said the following last year in his ruling:

> What is the "pending measure" at this moment? The pending measure is Senate bill 2644, a bill to provide for the development of civil-transport aircraft adaptable for auxiliary military service, and for other purposes. What is the purpose of the motion made by the able Senator from Nebraska, to which it is now being attempted to attach cloture? It is to create a new "pending measure." That is exactly the objective which the pending motion has in view. In the view of the Chair, in a reasonable interpretation of the English language, the Chair is unable to believe otherwise than that the "pending measure" at this moment in the forum of the Senate is Senate bill 2644. It is not the motion of the Senator from Nebraska to proceed to the consideration of House bill 29.

That is the language of the Senator from Michigan. Why did not the Senator from Michigan, in his defense of the opinion which he rendered at that particular time, explain to Senators today, and especially to new Members of the Senate, why he wrote that into his opinion last year? Why did he not go into that subject, instead of chiding the Vice President and the Senator from Illinois for not prosecuting the appeal?

I wish to comment very briefly on one or two things which the Senator from Michigan said. He is a great parliamentarian. He made a momentous ruling last year. Many Senators who are following him now were against him last year. Many of his own colleagues on the other side of the aisle who signed their names to cloture petitions to take up the very matter which I am now discussing are now with him.

The distinguished minority leader was the Senator who presented the petition for cloture at that time, but the ruling of the Senator from Michigan has changed his view. It changed the view of the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Missouri [Mr. DONNELL], and others who were with him on that cloture petition, for some reason or other. I never understood before that the Senator had that much power; but he does have it. He has changed the view of many of his colleagues as a result of the opinion which he rendered.

I wish to comment briefly on one point. The Senator from Michigan made much of the argument that although an appeal was taken from his ruling of last August, that appeal was never pursued in the Senate, either by the Senator from Illinois, who was the Democratic whip at that time, or the then majority leader, who is now our distinguished Vice President. That appeal, he said, was never presented to the Senate for a vote. He argues from that fact that therefore his ruling was etched that much more deeply into the precedents of the Senate. He said that it was very significant that no appeal was taken, which, in my judgement, Mr. President, is anything but a kind implication.

It is perfectly true that the Senate never voted on the appeal from the ruling of the Chair in the case of the Vandenberg ruling, but the fact that no vote was taken does not add any strength whatever to the validity of that ruling, for a very simple reason. It is strange, indeed, that my distinguished friend, who made many rulings from the Chair, did not appreciate this point when he was preparing the great address which he delivered today.

Under the parliamentary situation established immediately after the ruling of the Chair, no vote on the appeal was possible. The cloture petition was filed while a motion to proceed to the consideration of the anti-poll-tax bill was being endlessly debated. A filibuster was in progress. The cloture petition was filed in an effort to end that debate.

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The President pro tempore ruled that the cloture petition did not apply to the motion to proceed to the consideration of the anti-poll-tax bill.

An appeal was entered by the senior Senator from Ohio [Mr. TAFT]. But, Mr. President, that appeal, just like the motion to proceed to the consideration of the anti-poll-tax bill itself, was subject in turn to unlimited debate. The only way of shutting off debate on an appeal, as we all know, is to move to lay the appeal on the table; but it is not a motion which can logically be made by those who oppose the ruling of the Chair, since if the appeal were laid on the table the Chair would be sustained. The Senator from Michigan knows that to be so.

Do Senators think that the Senator from Georgia [Mr. RUSSELL], who took an appeal from the ruling of the Chair last night is going to make a motion to lay that appeal on the table? That is exactly what the Senator from Michigan said to the then Democratic leader, Mr. BARKLEY, or the Senator from Illinois should have done last year; but that is not a motion which can logically be made by those who oppose the ruling of the Chair, since if the appeal were laid on the table the Chair would be sustained. So those who opposed the ruling of the Chair last August had no means by which they could show their strength and avoid the ruling of the Presiding Officer.

The truth of the matter is that at the particular time the distinguished Senator from Georgia, when this question was called up, demanded the yeas and nays, and under the parliamentary situation it was impossible for the Senator from Nebraska to withdraw his motion thereafter.

Later the Republicans held a caucus and decided that they could not break the filibuster at that time in the special session, and they withdrew.

Mr. WHERRY, Republican, Nebraska. We moved to take up another measure.

Mr. LUCAS. They moved to take up another measure, which is the same thing as withdrawing. At any rate, they did not pursue the matter further.

In fact, when the Presiding Officer decides against the applicability of rule XXII, the majority of the Senate is helpless to reverse him or even to get a vote of the Senate, because Senators who support the ruling of the Chair are in a position, by unlimited debate, to prevent the appeal from ever being brought to a vote. A motion to lay the appeal on the table, the only way in which a debate can be shut off on an appeal, is not a motion which Senators who oppose the Chair's ruling can make, because it is directed to sustaining rather than reversing the ruling of the Chair. If the motion to lay on the table is successful, the ruling of the Chair is sustained.

It seems to me, therefore, the argument that the ruling of the Senator from Michigan is a precedent which then had the backing of the Senate disappears completely under this analysis, which is strictly in accord with parliamentary law. The Senator from Michigan can find it out tomorrow if he will consult the Parliamentarian.

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## CIVIL RIGHTS

Mr. President, let me make one or two other statements which I think should be made in the course of this debate, notwithstanding what my good friend the Senator from Georgia has said.

I believe it is high time to clear away the fog and confusion which has surrounded this debate. I am going straight to the heart of the matter. Regardless of whether anyone likes it or does not like it, I am going to be plain and honest about this situation. Some can hide it if they wish to do so, but everyone knows why this rule was brought up. Everyone knows why this filibuster is on. If the civil rights program were not involved, there would not be any filibuster here at the present time. So why hide it? Why try to say that nothing but a rule is involved, when other Senators have talked for days on the floor of the Senate about the F.E.P.C. and the anti-poll-tax bill and the antilynching bill?

Everyone knows that the basic question we are discussing here is not simply a question of a change in the Senate rules. First, it is a question of whether we mean to breathe life into the cloture rule, so that we can get along with the business of the Senate of the United States, instead of remaining here days and nights debating a simple motion

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to take up this measure. How ridiculous it is, Mr. President, when one thinks about it. What a spectacle we are making in the eyes of the people of this country.

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It is a question of whether we are going to enact a federal law against lynching, and a federal law on poll taxes, and a federal law to protect all races from discrimination by unfair restrictions in employment.

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When the people come to make their judgement in future elections, they will not ask whether we voted to sustain or repudiate a ruling of the Vice President; they will only ask, "Were you for or against ending filibusters in the United States Senate?"

Mr. President, I move to lay the appeal on the table.

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The VICE PRESIDENT. The question is on the motion of the Senator from Illinois [Mr. LUCAS] to lay on the table the appeal taken by the Senator from Georgia [Mr. RUSSELL] from the ruling of the Chair on yesterday in regard to the filing of the cloture petition.

Mr. RUSSELL and other Senators asked for the yeas and nays, and they were ordered.

Mr. WHERRY. Mr. President, will the present occupant of the Chair, the Vice President, state for the benefit of all Senators the effect of the vote to be taken? If a Senator votes to lay the motion on the table, he votes to sustain the Vice President in his decision, does he not?

The VICE PRESIDENT. A vote to lay the appeal on the table is a vote to sustain the Chair. A vote not to lay the appeal on the table has the opposite effect.

Mr. WHERRY. That is as I understand it.

The result was announced—yeas 41, nays 46.

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So Mr. LUCAS' motion to lay on the table Mr. RUSSELL's appeal from the decision of the Chair was rejected.

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The VICE PRESIDENT. The Chair should state that at whatever time the Senate resumes its session after recess the appeal will be the matter before the Senate.

Mr. RUSSELL. Mr. President, upon further consideration, I am perfectly willing to proceed to a vote on the appeal at this time, if the Senate desires to vote.

Mr. LUCAS. Let us vote and get it out of the way. I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgement of the Senate?

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The result was announced—yeas 41, nays 46.

So the ruling of the Chair was not sustained.

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The teacher asked Johnny to tell her what a hypocrite is. Replied Johnny, "It's a boy what comes to school with a smile on his face."—*Christian Herald*

Congress is now confronted with the unsolved problem of how to get people to pay taxes they can't afford for services they don't need.—*Grit.*

The workman who had just completed the sidewalk in front of my neighbor's new home was at her doorstep, glowing with pride.

"Lady, you'll not find a smoother job of sidewalk laying in all . . . .!" Exclamations and a volume of unprintable language followed as he turned and spied a 3-year-old gleefully wading up through the center of his newly laid concrete.

"I thought you were fond of children," my neighbor quickly broke in.

Cried the workman, "In the abstract—yes, but in the concrete—NO!" —*Popular Home*

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